

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

John Wood,

Contestant,

v.

Brad Raffensperger, in his official capacity of
Secretary of State of the State of Georgia; and Brian
Kemp, in his official capacity as Governor of the
State of Georgia.

Defendants.

Civ. Act. No. 2020CV342959

Motion to Intervene as Defendants

Gloria Butler, Bobby Fuse, Deborah Gonzalez, Stephen Henson, Van Johnson, Pedro Marin, Fenika Miller, Ben Myers, Rachel Paule, Calvin Smyre, Robert Trammell Jr., Manoj S. “Sachin” Varghese, Nikema Williams, and Cathy Woolard (collectively, the “Biden Electors”) seek to participate as intervening defendants to defend their interests in protecting their established victory, the rights of Georgia voters who cast ballots in the November 3, 2020 general election, and the integrity of the election process.

For the reasons discussed in the memorandum in support, filed concurrently herewith as Exhibit A, the Biden Electors are entitled to intervene in this case as a matter of right under O.C.G.A. § 9-11-24(a). In the alternative, the Biden Electors request permissive intervention pursuant to O.C.G.A. § 9-11-24(b). In accordance with O.C.G.A. § 9-11-24(c), the Biden Elector’s Proposed Answer to the Petition is attached as Exhibit B. The Biden Electors also submit a Proposed Order granting their Motion to Intervene attached as Exhibit C. The Biden Electors also submit their Proposed Motion to Dismiss Contestant’s Petition, attached as Exhibit D, with a

supporting memorandum of law, attached as Exhibit E. Biden Electors also submit the Attorney's Affidavit of Adam M. Sparks in support of their Motion to Intervene attached as Exhibit F.

WHEREFORE, the Biden Electors respectfully request that the Court grant them leave to intervene in the above-captioned matter.

Dated: November 30, 2020.

Respectfully submitted,

/s/Adam M. Sparks

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**Pro Hac Vice Application Forthcoming*

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Memorandum in Support of Motion to Intervene

I. INTRODUCTION

Pursuant to O.C.G.A. §§ 9-11-24, 21-2-520, and 21-2-524, Proposed Intervenors Gloria Butler, Bobby Fuse, Deborah Gonzalez, Stephen Henson, Van Johnson, Pedro Marin, Fenika Miller, Ben Myers, Rachel Paule, Calvin Smyre, Robert Trammell Jr., Manoj S. “Sachin” Varghese, Nikema Williams, and Cathy Woolard, move to intervene as Defendants in this action. Each of the proposed Intervenor-Defendants are among the slate of 16 presidential electors nominated by the Democratic Party and certified by Governor Brian Kemp after Secretary of State Brad Raffensperger certified the election results to formally declare President-Elect Joseph R. Biden, Jr., the winner of Georgia’s presidential race (collectively the “Biden Electors”). They are now empowered to and intend to cast Georgia’s electoral college votes for Biden.

On November 3, 2020, and as subsequently confirmed by a hand recount of every presidential vote, President-Elect Biden won the popular vote in Georgia. As a result, the Biden Electors were duly appointed to the Electoral College. On Wednesday, November 25, Contestant John Wood, an individual voter, filed this extraordinary election contest in an attempt to undo

those election results. Contestant's Petition is riddled with fatal procedural defects and supported by nothing more than rank speculation, implausible conspiracy theories, unsubstantiated statistical extrapolation, and flawed legal claims. It is political theatre, part of a broader and deeply troubling attempt playing out on a national stage to enlist the judiciary to cast doubt on the outcome of the presidential election.

The relief that Contestant seeks is as unprecedented and unjustifiable as his extraordinary claims. He seeks nothing less than the disenfranchisement of millions of lawful Georgia voters by way of a judicial declaration that would (1) render the results of Georgia's presidential election "null and void," and (2) permit the General Assembly to subvert democracy by appointing a new slate of presidential electors entirely untethered to the will of Georgia's voters. In the alternative, Contestant asks that the Court order a "second Presidential election" that would ensure Georgia's presidential electors cannot be certified by the federal safe harbor deadline in 3 U.S.C. § 5 (December 8) or the required date for the meeting of the electoral college, *id.* § 6 (December 14). *See* Petition for Election Contest ("Pet."), Prayer for Relief. In essence, Contestant requests that the election be set aside because his preferred candidate did not obtain support from a majority of the state's voters. There is no authority for this extraordinary request, which would not only upend Georgia's entire electoral process, but would effectively convert the state's political structure into something unfathomable to generations of Americans.

The Biden Electors—who are the proper defendants if this contest moves forward—should be permitted to intervene to protect their own interests, the interests of the candidate they are pledged to support, and the interests of the millions of Georgians who voted for that candidate.

II. STATEMENT OF FACTS

On November 3, 2020, Georgia voters and the nation as a whole chose former Vice President and now President-Elect Biden as the United States' next President. The state's certified vote count confirms that President-Elect Biden defeated Donald J. Trump by 12,670 votes in the state of Georgia.¹ As a result, the Biden Electors were certified by the Governor and appointed to the Electoral College. Ex. 1; *see* O.C.G.A. § 21-2-10 (“At the November election to be held in the year 1964 and every fourth year thereafter, there shall be elected by the electors of this state persons to be known as electors of President and Vice President of the United States”); *see also* O.C.G.A. § 21-2-379.5(e) (“When presidential electors are to be elected, the ballot shall not list the individual names of the candidates for presidential electors but shall list the names of each political party and body and the names of the political party or body candidates for the office of President and Vice President.”); O.C.G.A. § 21-2-285(e) (same).

On November 11, following unsubstantiated complaints from Republican leaders about the integrity of the election, the Secretary announced that a statewide hand recount of the presidential election would take place.² *See* Exs. 2, 3. The hand recount began on November 12, and it concluded without issue on November 18. No significant irregularities in the original counts or the recount were reported. On November 20, the Secretary of State certified the results of the election, confirming the Biden Electors' victory and certifying that the “consolidated returns for state and

¹ Kate Brumback, *Georgia officials certify election results showing Biden win*, AP (Nov. 20, 2020), <https://apnews.com/article/georgia-certify-election-joe-biden-ea8f867d740f3d7d42d0a55c1aef9e69>.

² Tal Axelrod, *Georgia secretary of state announces hand recount of presidential race*, The Hill (Nov. 11, 2020), <https://thehill.com/homenews/campaign/525476-georgia-secretary-of-state-announces-hand-recount>.

federal offices are a true and correct tabulation of the certified returns received by this office from each county.”³ The Governor then issued final certificates of ascertainment declaring that the Biden Electors “were appointed Electors of President and Vice President of the United States for the State of Georgia” Ex. 1.

The next day—despite a comprehensive hand recount of every single ballot having just occurred—President Trump’s reelection campaign issued a “Recount Demand” to the Secretary, “pursuant to O.C.G.A. § 21-2-495(c) and State Board Rule 183-1-15.03,” in which it sought a second recount of the presidential election results, this time to be conducted by machine (the “machine recount”). Ex. 4. The machine recount, which utilizes ballot scanners, will be the *third* time votes are counted in the presidential race. It is already underway and must be completed by December 2.⁴

Contestant filed this action on November 25, seeking to invalidate the election of the Biden Electors and replace them with a slate chosen by the General Assembly, or to require a second presidential election. In support of his unprecedented request, Contestant offers: a conspiracy theory that a 501(c)(3) organization’s grants to assist localities conduct safe elections is actually a “‘shadow government’ operation” through which a social media CEO allegedly dictated the outcome of the election, Pet. at 4; an unsupported “estimated number of illegal votes counted,”

³ Michelle Ye Hee Lee, *Georgia certifies election results — the first to do so among states where Trump is mounting legal challenges*, Wash. Post (Nov. 20, 2020), https://www.washingtonpost.com/politics/georgia-certifies-election-results--the-first-to-do-so-among-states-where-trump-is-mounting-legal-challenges/2020/11/20/66c77530-2b4b-11eb-9b14-ad872157ebc9_story.html.

⁴ Kate Brumback, *Georgia counties set to start recount requested by Trump*, AP (Nov. 23, 2020), <https://apnews.com/article/election-2020-joe-biden-donald-trump-georgia-state-elections-352e729f14a243b98fdefda94ff164ce>.

based only on “statistical extrapolation,” *id.* at 3, ¶ 70; and conclusory, baseless allegations that election officials failed to follow state and federal law. *See generally id.* The factual allegations and legal theories in this contest are largely parallel those in unsuccessful federal court lawsuit brought by *Contestant* before the election; the Northern District of Georgia denied *Contestant*’s desired injunctive relief because he was unlikely to succeed on the merits of any claims and only alleged speculative injuries. *See* Order, ECF No. 18, *Georgia Voter Alliance v. Fulton Cnty*, No. 1:20-CV-4198-LMM (N.D. Ga. Oct. 28, 2020).

Despite widespread acknowledgement that no fraud occurred, various coordinated lawsuits, much like this one, have been filed around the country and in Georgia in an attempt to sow confusion and cast doubt on the legitimacy of the election.⁵ Indeed, a lawsuit alleging similar improprieties and conspiracy theories was filed more than two weeks ago in the Northern District of Georgia. After considering the parties’ briefing and argument in a comprehensive two-hour argument, the court denied plaintiff’s motion for a temporary restraining order. *See* Opinion and Order, *Wood v. Raffensperger*, No. 20-cv-04651, 2020 WL 6817513 at *12 (N.D. Ga. Nov. 20, 2020) (denying Plaintiff’s claim for emergency injunctive relief in part because Plaintiff “cannot show a likelihood of success on the merits”). That plaintiff also sought to prevent the certification of the Biden Electors victory, which the Court called an “extraordinary remedy . . . [that] would breed confusion, undermine the public’s trust in the election, and potentially disenfranchise of over one million Georgia voters.” *Id.* That court explained that “interfer[ing] with the result of an

⁵ *See, e.g.,* Nick Corasaniti, et al., *The Times Called Officials in Every State: No Evidence of Voter Fraud*, N.Y. Times (Nov. 10, 2020), <https://www.nytimes.com/2020/11/10/us/politics/voting-fraud.html>.

election that has already concluded would be unprecedented and harm the public in countless ways.” *Id.*

III. ARGUMENT

Georgia courts permit winning candidates to intervene in election contests challenging their victory. *See, e.g., Williams v. Heard*, 302 Ga. 114, 115 (2017) (“[T]he court allowed [the winning candidate] to intervene in the contest action.”). The Biden Electors have an undeniable interest in this lawsuit, which seeks to declare their victory null and void. Not only is Contestant’s request wholly unwarranted (not least of all because it comes upon the heels of the state’s thorough hand recount of all ballots and in the midst of a *second* recount), but the Biden Electors have particular interests in showing that Contestant’s allegations are utterly specious and cannot justify the extraordinary relief he seeks.

A. The Biden Electors have a statutory right to intervene.

Georgia law permits intervention as a matter of right “[w]hen a statute confers an unconditional right to intervene” O.C.G.A. § 9-11-24(a)(1). Here, the election contest statutes provide the statutory basis for intervention. They clearly state that, in an election contest, the “defendant” means “[t]he person whose . . . election is contested.” O.C.G.A. § 21-2-520(2)(A). The statutes also require the contestant allege “[t]he name of the defendant” and “[t]he name of each person who was a candidate at such . . . election for such . . . office,” each of whom is served by the court clerk. O.C.G.A. § 21-2-524(a)(3)(4), (f). Those defendants and candidates “shall be deemed [] litigant[s] to such proceeding and may set up by way of answer or cross action any right of interest or claim he or she may have.” O.C.G.A. § 21-2-524(f).

Presidential candidates are not elected by the voters of Georgia; rather, Georgia’s electorate selects presidential electors who then vote for presidential candidates on behalf of the state at the

Electoral College. Georgia's Election Code states, "[a]t the November election to be held in the year 1964 and every fourth year thereafter, there shall be elected by the electors of this state persons to be known as *electors of President and Vice President* of the United States" O.C.G.A. § 21-2-10 (emphasis added). Contestant purports to contest the "result of the November 3, 2020 general election for President and Vice President," but no such election exists. Rather, "[w]hen *presidential electors are to be elected*, the ballot shall not list the individual names of the candidates for presidential electors but shall list the names of each political party and body and the names of the political party or body candidates for the office of President and Vice President." O.C.G.A. § 21-2-379.5(e) (emphasis added); *see* O.C.G.A. § 21-2-285(e). The Georgia Supreme Court has confirmed that presidential elections in Georgia are actually "election[s] for presidential electors." *Rose v. State*, 107 Ga. 697 (1899); *Franklin v. Harper*, 205 Ga. 779, 785 (1949) (describing an "election . . . for presidential electors"); *Moore v. Smith*, 140 Ga. 854 (1913) (same). The U.S. Supreme Court reiterated this understanding in a decision issued earlier this year. *See Chiafalo v. Washington*, 140 S. Ct. 2316, 2319 (2020) ("Every four years, millions of Americans cast a ballot for a presidential candidate. Their votes, though, actually go toward selecting members of the Electoral College, whom each State appoints based on the popular returns. Those few 'electors' then choose the President."). The Biden Electors are therefore proper "defendants" as "[t]he person[s] whose nomination or election is contested." O.C.G.A. § 21-2-520(2)(A).

Though Contestant has erroneously named the wrong individuals as "candidates" in his Petition, if this contest is to proceed, the Court should permit the Biden Electors to exercise their statutory right to appear before the Court as if the contest were properly pled. *See* Pet. ¶ 6 (improperly identifying "Governor and Secretary of State" as defendants and "Joseph R. Biden,

Kamala D. Harris; Donald J. Trump and Michael R. Pence; and Jo Jorgenson and Jeremy ‘Spike’ Cohen” as the candidates). Granting the Biden Electors’ intervention motion per their statutory right is necessary to the fairness and validity of this contest.

B. The Biden Electors are otherwise entitled to intervene as a matter of right under O.C.G.A. § 9-11-24(a)(2).⁶

Even absent their statutory right to intervene, the Biden Electors easily meet Georgia’s traditional test for motions to intervene as of right. Specifically, O.C.G.A. § 9-11-24(a)(2) provides that after timely application “anyone *shall* be permitted to intervene” in an action “[w]hen the applicant claims an interest relating to” the subject matter of the action and the applicant “is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant’s interest is adequately represented by existing parties.”⁷ O.C.G.A. § 9-11-24(a)(2) (emphasis added). Georgia courts have described this as a three-part inquiry, consisting of “[1] interest, [2] impairment resulting from an unfavorable disposition, and

⁶ The Georgia Supreme Court has clarified that “[t]he [Civil Practice Act (CPA)] ‘shall apply to all special statutory proceedings except to the extent that specific rules of practice and procedure in conflict [with it] are expressly prescribed by law.’” *Martin v. Fulton Cnty. Bd. of Registration & Elections*, 307 Ga. 193, 210 (2019) (quoting O.C.G.A. § 9-11-81). Thus, it follows that “the CPA provides background [procedural] rules in election contests—which are civil actions—except to the extent the Election Code sets forth ‘specific rules of practice and procedure’ that conflict with the CPA.” *Id.* The Election Code does not provide intervention rules that conflict with the CPA’s intervention provisions; rather, it only grants certain statutory rights to intervene that are *already contemplated* by O.C.G.A. § 9-11-24. *See, e.g.*, O.C.G.A. §§ 21-2-32(a); § 21-2-524(f).

⁷ “[W]hether a motion to intervene is timely is a decision entrusted to the sound discretion of the trial court.” *Kroger v. Taylor*, 320 Ga. App. 298, 298 (2013) (quoting *Payne v. Dundee Mills, Inc.*, 235 Ga. App. 514, 515(1) (1998)). “But where intervention appears before final judgment, where the rights of the intervening parties have not been protected, and where the denial of intervention would dispose of the intervening parties’ cause of action, intervention should be allowed and the failure to do so amounts to an abuse of discretion.” *Id.* This request for intervention was filed only five days after Contestant filed his petition, the same day he filed his supporting exhibits, and before any hearing in this contest. Accordingly, it is timely.

[3] inadequate representation.” See *Baker v. Lankford*, 306 Ga. App. 327, 329 (2010). The Biden Electors satisfy each prong.

First, the Biden Electors clearly have a direct interest in defending the certification of their own electoral victory from frivolous attacks. Under Georgia law, “the interest of the intervenor must be of such a direct and immediate character that he will either gain or lose by the direct effect of the judgment, and must be created by the claim in suit.” *State Farm Mut. Auto. Ins. Co. v. Jiles*, 115 Ga. App. 193, 195 (1967). There is no question that the Biden Electors will “gain or lose by the direct effect of [a] judgment” in this suit that seeks to prevent their appointment to the Electoral College in direct contravention of the decision of Georgia’s electorate. See *id.* The Biden Electors also have a direct interest in defending and supporting the will of the 2,474,507 Georgia voters who supported their election. See, e.g., *Bay Cnty. Democratic Party v. Land*, 347 F. Supp. 2d 404, 422 (E.D. Mich. 2004) (“political parties and candidates have standing to represent the rights of voters”); *Penn. Psychiatric Soc’y v. Green Spring Health Servs., Inc.*, 280 F.3d 278, 288 n.10 (3d Cir. 2002) (“candidates for public office may be able to assert the rights of voters”); *Walgren v. Bd. of Selectmen of Amherst*, 519 F.2d 1364, 1365 n.1 (1st Cir. 1975) (same).⁸

Second, there is no question that Contestant’s requests will impair the Biden Electors’ interests. He seeks to render the Biden Electors’ victory “null and void.” See Pet., Prayer for Relief ¶¶ 1-3. Then, he asks the Court to prevent certification of an election that has *already been certified*

⁸ Georgia courts regularly apply principles from federal caselaw to the scope of a party’s interest in litigation, for example, to determine whether a party’s injury is sufficient to confer standing to litigate a case. See *Feminist Women’s Health Ctr. v. Burgess*, 282 Ga. 433, 434 (2007) (collecting Georgia cases that look to federal law to resolve issues of standing); *Aldridge v. Ga. Hosp. & Travel Ass’n*, 251 Ga. 234, 235 (1983) (reviewing federal precedent to determine “associational standing”). Though the interest required for intervention is less than that required for standing, this Court should still look to instructive federal case law.

as a victory for the Biden Electors so that the General Assembly can appoint its own slate of electors—presumably for Contestant’s preferred candidate. *Id.* ¶ 5. In the alternative, he seeks a “second Presidential election,” *id.* ¶ 7, which would operate only to delay and obstruct the finality of this election, which the Biden Electors won. Put simply, the Biden Electors have been elected by the voters of Georgia to cast Georgia’s sixteen electoral votes for President-Elect Biden, and the Court should not permit Contestant, as a single voter disappointed in that outcome, to use the state judiciary as a prop in his efforts to undermine democracy.

Finally, the Biden Electors’ interests cannot adequately be represented by the State Defendants, who are not proper defendants in this suit to begin with. *See Martin*, 307 Ga. at 193 n.1 (noting the trial court’s dismissal of the Georgia Secretary of State as a defendant in an election contest); *see also* Br. of Amicus Curiae Sec’y of State, *Coal. of Good Governance v. Fulton Cnty. Bd. of Registration & Elections*, No. S19A0769, 2019 WL 2010128, at *1 n.1 (Ga. May 2, 2019), *Martin*, 307 Ga. 193 (noting “the superior court’s dismissal of the Secretary as an improper party to [an] election contest petition”). To the extent they remain parties to the lawsuit, their stake in this lawsuit is defined solely by their statutory duties to implement the electoral process. The Secretary of State, as the chief elections officer, is responsible for the general administration of the state laws affecting voting. *See* O.C.G.A. §§ 21-2-50, 21-2-384. Because the State is not institutionally designed to be an advocate for electing the President-Elect or protecting individual voters’ rights, it cannot adequately represent the interests of the Biden Electors, whose mission is just that.

Additionally, it should carry no weight that Contestant has improperly listed President-Elect Biden—who does have similar interests to the proposed intervenors—as a candidate in the

contested election. Under Georgia law, he was not the *candidate* in the election for presidential electors. *See supra* Section III.A. This means that he is not properly considered a “litigant” under the Election Contest rules and is not able to present “any right of interest or claim.” O.C.G.A. § 21-2-524(f).

C. In the alternative, the Biden Electors request the Court grant them permission to intervene under O.C.G.A. § 9-11-24(b).

If the Court does not grant intervention as a matter of right, the Biden Electors respectfully request that the Court exercise its discretion to allow them to intervene under O.C.G.A. § 9-11-24(b). Permissive intervention is appropriate “[w]hen an applicant’s claim or defense and the main action have a question of law or fact in common.” O.C.G.A. § 9-11-24(b)(2). “In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.” *Id.*

The Biden Electors easily meet the requirements for permissive intervention. *First*, the Biden Electors and the State will inevitably raise common questions of law and fact in defending this lawsuit and the elections process. *Second*, given the early stage of this litigation, intervention will not unduly delay or prejudice the adjudication of the rights of the original parties. To the contrary, the Biden Electors are prepared to proceed in accordance with any schedule the Court establishes and have an interest in moving as expeditiously as possible. Their intervention will only serve to contribute to the full development of the factual and legal issues before the Court.

IV. CONCLUSION

For the reasons stated above, the Biden Electors respectfully request that the Court grant their motion to intervene as a matter of right under O.C.G.A. § 9-11-24(a) or, in the alternative, permit them to intervene under O.C.G.A. § 9-11-24(b). The Biden Electors have submitted a

proposed motion to dismiss the Contestants' Petition for consideration by the Court if the Biden Electors are granted permission to intervene under either provision.

Dated: November 30, 2020.

Respectfully submitted,

/s/ Adam M. Sparks

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Proposed Answer to Petition for Election Contest

Proposed Intervenor Gloria Butler, Bobby Fuse, Deborah Gonzalez, Stephen Henson, Van Johnson, Pedro Marin, Fenika Miller, Ben Myers, Rachel Paule, Calvin Smyre, Robert Trammell Jr., Manoj S. "Sachin" Varghese, Nikema Williams, and Cathy Woolard, who are among the slate of 16 presidential electors nominated by the Democratic Party and certified by Governor Brian Kemp after Secretary of State Brad Raffensperger certified the election results to formally declare President-Elect Joseph R. Biden, Jr., the winner of Georgia's presidential race, move to intervene as Defendants in this action, and by and through their attorneys answer John Wood's Petition for Election Contest as set forth below. Unless expressly admitted, each allegation in the petition is denied.

INTRODUCTION

In response to the Petitioner's four-page introduction, the Intervenor deny the entirety of the introduction.

JURISDICTION

1. Paragraph 1 of the Petition states:

The Georgia Superior Courts have jurisdiction in all cases except as otherwise provided in the Georgia Constitution, Article VI, Section IV, paragraph 1.

Answer: Paragraph 1 of the Petition contains characterizations, legal contentions, and conclusions, to which no response is required. To the extent a response is required, the Intervenors deny the same.

2. Paragraph 2 of the Petition states:

Ga. Code §21-2-521 authorizes a voter contest of a federal Presidential Election electing Presidential Electors to the Electoral College. The statute states, “the election of any person who is declared elected to any such office ... may be contested by any person who was a candidate at such primary or election for such nomination or office, or by any aggrieved elector who was entitled to vote for such person . . .”

Answer: Paragraph 2 of the Petition contains characterizations, legal contentions, and conclusions, to which no response is required. To the extent a response is required, the Intervenors deny the same.

3. Paragraph 3 of the Petition states:

Ga. Code § 21-2-522 allows for an election contest on one or more of the following grounds: “(1) Misconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result; . . . (3) When illegal votes have been received or legal votes rejected at the polls sufficient to change or place in doubt the result.”

Answer: Paragraph 3 of the Petition contains characterizations, legal contentions, and conclusions, to which no response is required. To the extent a response is required, the Intervenors admit that the quoted language appears in O.C.G.A. § 21-2-522.

4. Paragraph 4 of the Petition states:

Ga. Code. Ann. § 21-2-571 allows for an election contest on the following ground: “Any person who votes or attempts to vote at any primary or election, knowing that such person does not possess all the qualifications of an elector at such primary or election, as required by law ... or who knowingly gives false information to poll officers in an attempt to vote in any primary or election.”

Answer: Paragraph 4 of the Petition contains characterizations, legal contentions, and conclusions, to which no response is required. To the extent a response is required, the Intervenor deny that the cited statute allows for an election contest.

5. Paragraph 5 of the Petition states:

Ga. Code § 21-2-572 allows for an election contest on the following ground: “Any person who votes in more than one precinct in the same primary or election or otherwise fraudulently votes more than once at the same primary or election shall be guilty of a felony.”

Answer: Paragraph 5 of the Petition contains characterizations, legal contentions, and conclusions, to which no response is required. To the extent a response is required, the Intervenor deny that the cited statute allows for an election contest.

6. Paragraph 6 of the Petition states:

Georgia Code § 21-2-524 requires eight allegations in the petition which are made herein. First, the contestant’s qualification as an aggrieved elector is identified. Second, the contestant’s desire to contest the result of the November 3, 2020 general election for President and Vice President is identified. Third, the names of the defendants Governor and Secretary of State are identified. Fourth, the names of the candidates at the election are: Joseph R. Biden and Kamala D. Harris; Donald J. Trump and Michael R. Pence; and Jo Jorgenson and Jeremy “Spike” Cohen. Fifth, this petition lists each ground of the contest. Sixth, the Secretary of State certified the vote totals for the Presidential contest on November 20, 2020. Seventh, the relief sought is identified herein. Eighth, other facts as are necessary are provided herein, including the attached expert declaration by Matthew Braynard, to provide a full, particular and explicit statement of the cause of contest.

Answer: Paragraph 6 of the Petition contains characterizations, legal contentions, and conclusions, to which no response is required. To the extent a response is required, the Intervenor admit that O.C.G.A. § 21-2-524 requires eight allegations in the Petition. The Intervenor also admit that Petitioner has identified himself as an aggrieved elector but deny that this qualifies Petitioner to institute the contest; admit that Petitioner identified his desire to contest the November 3, 2020 election for the presidential candidate; admit that Petitioner identified defendants but deny that these are the proper defendants to the contest, *see* O.C.G.A. § 21-2-520(2), *Martin v. Fulton Cty. Bd. of Registration & Elections*, 307 Ga. 193, 200 n.8 (2019), *Jones v. McElreath*, 167 Ga.

833 (1929), and *Swain v. Thompson*, 281 Ga. 30 (2006); deny that Petitioner listed presidential candidates as defined under Georgia law; admit that Petitioner lists the grounds for the contest; admit that the Secretary of State certified the election results on November 20, 2020 and the Governor issued a certificate of ascertainment of appointment of Electors of President and Vice President of the United States for the State of Georgia; and admit that Petitioner filed a declaration from Matthew Braynard but deny that the declaration contains the necessary facts for proof in his Petition.

7. Paragraph 7 of the Petition states:

The Fulton County Superior Court has jurisdiction and venue because the Defendants primarily reside or are located in Fulton County, Georgia. Ga. Code § 21-2-523.

Answer: Paragraph 7 of the Petition contains characterizations, legal contentions, and conclusions, to which no response is required. To the extent a response is required, the Intervenor deny the same.

PARTIES

8. Paragraph 8 of the Petition states:

Contestant John Wood is an elector, eligible voter and taxpayer residing in Coweta County and the Third Congressional District. John Wood is President of the Georgia Voters Alliance. John Wood is an aggrieved elector who believes the Georgia 2020 federal general election violated principles of election integrity.

Answer: In response to Paragraph 8 of the Petition, the Intervenor lack sufficient information to admit or deny the allegations in Paragraph 8 of the Petition and on that basis deny the same.

9. Paragraph 9 of the Petition states:

Georgia Secretary of State Brad Raffensperger is a Defendant. His office is located in Atlanta, Georgia. Secretary of State Raffensperger certified the Presidential Election result on November 20, 2020.

Answer: In response to Paragraph 9 of the Petition, the Intervenor admits that the Petitioner names Brad Raffensperger as a defendant but denies that he is a proper defendant. The Intervenor further admits that the Secretary of State certified the Presidential Election results on November 20, 2020.

10. Paragraph 10 of the Petition states:

Georgia Governor Brian Kemp is a Defendant. His office is located in Atlanta, Georgia. Under 3 U.S.C. § 6, a Governor of a state notifies the federal government of the Presidential Electors of that state for the Electoral College.

Answer: In response to Paragraph 10 of the Petition, the Intervenor admits that the Petitioner names Brian Kemp as a defendant but denies that he is a proper defendant. The Intervenor admits that 3 U.S.C. § 6 requires the Governor of each State to notify the federal government of the presidential electors for the electoral college.

ULTIMATE ISSUE PRESENTED BY THE CONTROVERSY

11. Paragraph 11 of the Petition states:

Whether there is sufficient evidence to show that Georgia's election officials failed to conduct the November 3, 2020 election for Presidential Electors in accordance with the Georgia state constitution and Georgia state law casting sufficient doubt on the razor-thin margin of 12,670 to void the election result.

Answer: Paragraph 11 contains characterization of the issue in the Petition, which does not necessitate a response from the Intervenor. To the extent a response is required, the Intervenor denies the same.

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12. Paragraph 12 of the Petition states:

The Georgia General Assembly has adopted laws governing the voting for the selection of Presidential electors. Those laws provide for voting to be conducted pursuant to Georgia general election laws. Title 21 of the Official Code of Georgia.

Answer: Admit.

13. Paragraph 13 of the Petition states:

In 1997, in order to prevent the casting of ineligible ballots due to, among other reasons, fraud, the Georgia General Assembly adopted Act 53 to require Georgia voters, known as electors under Georgia law, to present an identification containing a photograph, such as a driver's license, to either a municipal or county clerk when registering to vote municipal or county clerk or other official when voting. Ga. Code § 21-4-417. The Georgia General Assembly adopted the photo ID requirement to deter the casting of ballots by persons either not eligible to vote or persons fraudulently casting multiple ballots. *Democratic Party of Georgia, Inc. v. Perdue*, 288 Ga. 720 (2011).

Answer: Paragraph 13 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. The Intervenor further deny that O.C.G.A. § 21-4-417 is a statute regarding election-related identification because O.C.G.A. § 21-4-417 does not appear to be an election statute at all. To the extent Petitioner's characterization and interpretation of the cited case law differs from the text of the cited provisions, the Intervenor deny the allegations. To the extent a response is otherwise required, the Intervenor deny the allegations.

14. Paragraph 14 of the Petition states:

The Georgia General Assembly has also provided voters with the option to vote by absentee processes which are set forth in very detailed and unambiguous language in the Georgia statutes at Georgia Code § 21 -2-10, et seq.

Answer: Paragraph 14 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions, the Intervenor deny the allegations. To the extent a response is otherwise required, the Intervenor admit that the Georgia General Assembly has provided voters with the option to vote by absentee processes and deny each other or different allegation.

15. Paragraph 15 of the Petition states:

The Georgia General Assembly created the State Election Board as an independent agency under the Georgia Secretary of State, as chairman, to administer Georgia's election laws. Ga. Code §21-

2-30-34. The State Election Board is authorized to adopt administrative rules pursuant to the Georgia Administrative Procedures Act, which governs administrative rule making. However, nothing under Georgia's election laws authorizes the State Elections Board to issue any documents, make any oral determinations or instruct governmental officials administering elections to perform any act contrary to Georgia law governing elections.

Answer: The Intervenors admit the first two sentences of Paragraph 15. The Intervenors deny the remainder of the paragraph to the extent Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions.

16. Paragraph 16 of the Petition states:

Furthermore, the Georgia General Assembly also allowed for the creation of county election boards with the power to act as an election superintendent relating to the conduct of primaries and elections. Ga. Code § 21-2-40. These county election boards are responsible for administering the elections in their respective jurisdictions.

Answer: Admit.

17. Paragraph 17 of the Petition states:

As set forth above, the Georgia General Assembly adopted Act 53 in 1997 to require Georgia electors to present an identification containing a photograph, such as a driver's license, to either a municipal or county clerk when registering to vote municipal or county clerk or other official when voting. Ga. Code §21-4-417. The Georgia General Assembly adopted the photo ID requirement to deter the casting of ballots by persons either not eligible to vote or persons fraudulently casting multiple ballots. *Democratic Party of Georgia, Inc. v. Perdue*, 288 Ga. 720 (2011).

Answer: Paragraph 17 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. The Intervenors further deny that O.C.G.A. § 21-4-417 is a statute regarding election-related identification because O.C.G.A. § 21-4-417 does not appear to be an election statute at all. To the extent Petitioner's characterization and interpretation of the cited case law differs from the text of the cited provisions, the Intervenors deny the allegations. To the extent a response is otherwise required, the Intervenors deny the allegations.

18. Paragraph 18 of the Petition states:

Georgia's absentee voting is governed by Ga. Code § 21 -2-380-§21-2-390.

Answer: The Intervenor's admit that absentee voting is governed, in part, by the statutes referenced in Paragraph 18. However, to the extent Petitioner suggests this list is complete as to the law governing absentee voting, the Intervenor's deny the allegations.

19. Paragraph 19 of the Petition states:

Ga. Code § 21-2-381 governs how Georgia electors may obtain an absentee ballot.

Answer: Paragraph 20 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is otherwise required, the Intervenor's admit that absentee voting is governed, in part, by the statute referenced in Paragraph 19. However, to the extent Petitioner suggests this paragraph is complete as to the law governing absentee voting, the Intervenor's deny the allegations.

20. Paragraph 20 of the Petition states:

With respect to all absentee voters, Ga. Code § 21-2-381(b) governs how the clerk is to transmit an absentee ballot to the absentee elector after the clerk approves the absentee voter application.

Answer: Paragraph 20 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is otherwise required, the Intervenor's admit that absentee voting is governed, in part, by the statute referenced in Paragraph 20. However, to the extent Petitioner suggests this paragraph is complete as to the law governing absentee voting, the Intervenor's deny the allegations.

21. Paragraph 21 of the Petition states:

Under Ga. Code§ 21-2-384(b), if the clerk approves absentee ballot application, the clerk will then mail to the absentee voter an envelope containing (i) the absentee ballot and (ii) a return envelope into which the absentee voter is to place the absentee ballot.

Answer: Paragraph 21 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is otherwise

required, the Intervenor's admit that the statute provides for the clerk to mail the absentee voter an envelope containing the absentee ballot and a return envelope.

22. Paragraph 22 of the Petition states:

On the back of the absentee envelope, Ga. Code § 21-2-384(b), requires that the clerk send the absentee voter an envelope containing (i) an envelope with only the words "Official Absentee Ballot" on one side and (ii) an envelope which the absentee voter must use to return the absentee ballot back to the clerk. On one side of the envelope is the oath for electors and the oath for the person assisting the elector, and the statutory penalties for violation of the oaths. On the other side the name and address of the board of registrars or absentee ballot clerk, and the elector's name and voter registration number.

Answer: Paragraph 22 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is otherwise required, the Intervenor's admit the allegations.

23. Paragraph 23 of the Petition states:

The absentee voter's certification must be in substantially the following form pursuant to Ga. Code § 21-2-384(c)(1):

I, the undersigned, do swear (or affirm) that I am a citizen of the United States and of the State of Georgia; that I possess the qualifications of an elector required by the laws of the State of Georgia; that I am entitled to vote in the precinct containing my residence in the primary or election in which this ballot is to be cast; that I am eligible to vote by absentee ballot; that I have not marked or mailed any other absentee ballot, nor will I mark or mail another absentee ballot for voting in such primary or election; nor shall I vote therein in person; and that I have read and understand the instructions accompanying this ballot; and that I have carefully complied with such instructions in completing this ballot. I understand that the offer or acceptance of money or any other object of value to vote for any particular candidate, list of candidates, issue, or list of issues included in this election constitutes an act of voter fraud and is a felony under Georgia law.

Signature or Mark of Elector
Printed Name of Elector

Answer: Paragraph 23 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is otherwise

required, the Intervenor's admit that the elector's oath is governed, in part, by the language quoted in the statute referenced in Paragraph 23. However, to the extent Petitioner suggests this paragraph is complete as to the law governing absentee voting, the Intervenor's deny the allegations.

24. Paragraph 24 of the Petition states:

Pursuant to Ga. Code § 21-2-386, "Upon receipt of each ballot, a registrar or clerk shall write the day and hour of the receipt of the ballot on its envelope. The registrar or clerk shall then compare the identifying information on the oath with the information on file in his or her office, shall compare the signature or mark on the oath with the signature or mark on the absentee elector's voter registration card or the most recent update to such absentee elector's voter registration card and application for absentee ballot or a facsimile of said signature or mark taken from said card or application, and shall, if the information and signature appear to be valid and other identifying information appears to be correct, so certify by signing or initialing his or her name below the voter's oath. Each elector's name so certified shall be listed by the registrar or clerk on the numbered list of absentee voters prepared for his or her precinct."

Answer: Paragraph 24 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions, the Intervenor's deny the allegations. To the extent a response is otherwise required, the Intervenor's admit that the quoted language appears in the cited statute.

25. Paragraph 25 of the Petition states:

Under Ga. Code § 21-2-386(a)(1)(C), the Georgia General Assembly also established a clear and efficient process to be used by county officials if they determine that an elector had failed to sign the oath on the outside envelope enclosing the ballot or that the signature does not conform with the signature on file in the registrar's or clerk's office. When dealing with defective absentee ballots:

If the elector has failed to sign the oath, or if the signature does not appear to be valid, or if the elector has failed to furnish required information or information so furnished does not conform with that on file in the registrar's or clerk's office, or if the elector is otherwise found disqualified to vote, the registrar or clerk shall write across the face of the envelope "Rejected," giving the reason therefor. The board of registrars or absentee ballot clerk shall promptly notify the elector of such rejection, a copy of which notification shall be

retained in the files of the board of registrars or absentee ballot clerk for at least two years.

Answer: Paragraph 25 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions, the Intervenor's deny the allegations. To the extent a response is otherwise required, the Intervenor's admit that the quoted language appears in O.C.G.A. § 21-2-386(a)(1)(C), but is not a complete recitation of the statute.

26. Paragraph 26 of the Petition states:

Fulton County entered into an agreement with a non-profit organization, CTCL, an organization created in 2012 and funded with \$350 million USD by Facebook billionaire Mark Zuckerberg, a well-known activist and partisan, to take millions of dollars from CTCL to conduct the November 3, 2020 election in violation of Georgia law.

Answer: In response to Paragraph 26 of the Petition, the Intervenor's lack sufficient information to admit or deny the allegations in Paragraph 26 of the Petition and on that basis deny the same.

27. Paragraph 27 of the Petition states:

Moreover, specifically with respect to elections, only the Georgia Secretary of State can take in monies from sources other than taxation and that is limited to applying for a federal grant under Georgia's Election Plan created under the Help America Vote Act ("HAVA"). Ga. Code § 21-2-50.2 provides that only the Georgia Secretary of State can seek funds from the federal government under HAVA.

Answer: Paragraph 27 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is otherwise required, the Intervenor's deny the same.

28. Paragraph 28 of the Petition states:

Georgia adopted a plan in 2003 pursuant to the federally enacted Help America Vote Act ("HAVA"). Pursuant to Section 3 of the HAVA plan, each election commission was "required to conduct regular training and administer examinations to ensure that individuals who are certified

are knowledgeable concerning their authority and responsibilities.” Using HAVA volunteers is a violation of Georgia’s HAVA plan.

Answer: Paragraph 28 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent Petitioner’s characterization and interpretation differs from the text of the cited provisions, the Intervenor’s deny the allegations. To the extent a response is otherwise required, the Intervenor’s deny the allegations.

29. Paragraph 29 of the Petition states:

In September 2020, Fulton County entered into agreement with CTCL to take “as a gift” \$6.3 million USD from CTCL (“CTCL Agreement”).

Answer: In response to Paragraph 29 of the Petition, the Intervenor’s lack sufficient information to admit or deny the allegations in Paragraph 29 of the Petition and on that basis deny the same.

30. Paragraph 30 of the Petition states:

Pursuant to the terms of the CTCL Agreement, Fulton County would be required to remit back to CTCL the entire \$6.3 million USD “gift” if CTCL in its sole discretion determines that the cities have not complied with the CTCL Agreement. The CTCL Agreement provide that the purpose of the funds was to be used exclusively for the public purpose of planning safe and secure election administration in Fulton County. Thus, pursuant to the CTCL Agreement, CTCL could direct the election officials to conduct the election in ways CTCL wanted and, if the Fulton County election officials did not comply, CTCL could force Fulton County to refund the \$6,300,000.

Answer: In response to Paragraph 30 of the Petition, the Intervenor’s lack sufficient information to admit or deny the allegations in Paragraph 30 of the Petition and on that basis deny the same.

31. Paragraph 31 of the Petition states:

On September 2, 2020, the Fulton County Board of Commissioners approved acceptance of the grant from the CTCL at the recommendation from the Fulton County Registration and Elections Division. Among other things, Fulton County agreed “with CTCL to use the monies to:

- Hire additional personnel for elections;

- Increase existing salaries for staff;
- Encourage and Increase Absentee Voting (By Mail and Early, In-Person);
- Provide assistance to help voters comply with absentee ballot requests & certification requirements;
- Utilize secure drop-boxes to facilitate return of absentee ballots
- Deploy additional staff and/ or technology improvements to expedite & improve accuracy of absentee ballot processing;
- Expand In-Person Early Voting (Including Curbside Voting); and Commit “to conducting the necessary voter outreach and education to promote absentee voting and encourage higher percentages of our electors to vote absentee.

Harding Decl., Exs. A, B, C.

Answer: In response to Paragraph 31 of the Petition, the Intervenor admits that Petitioner filed an exhibit that appears to be a Resolution Authorizing Fulton County to Accept a Grant for Elections Equipment and Services; and for other Services. The Intervenor denies each other or different allegation to the extent Petitioner’s characterization and interpretation of the Resolution differs from the text of the Resolution entered into between Fulton County and CTCL.

32. Paragraph 32 of the Petition states:

The Cities and CTCL knew in 2020 that Democrat voters would be voting primarily by absentee vote which is why the Cities and CTCL aggressively “promoted,” “encouraged” and overzealously solicited” voters to vote absentee—including eliminating absentee ballot security requirements.

Answer: Denied.

33. Paragraph 33 of the Petition states:

CTCL provided a \$6.3 million grant for election administration to Fulton County Georgia. See attached Harding Decl., Ex. F.

Answer: In response to Paragraph 33 of the Petition, the Intervenor admits that Petitioner filed a letter that appears to indicate that CTCL approved a grant of at least \$6.3 million dollars for election administration. Intervenor lacks sufficient information to ascertain the foundation of

this letter and therefore can neither admit nor deny the allegations in Paragraph 33 of the Petition and on that basis deny the same.

34. Paragraph 34 of the Petition states:

CTCL provided grants to at least a dozen generally democratic Georgia counties to develop their election administration.

Answer: In response to Paragraph 34 of the Petition, the Intervenors lack sufficient information to admit or deny the allegations in Paragraph 34 of the Petition and on that basis deny the same.

35. Paragraph 35 of the Petition states:

This meant that counties that were unaware of these grants were unable to access the funds and were unable to provide similar access and technology to their electors for the 2020 federal general election.

Answer: In response to Paragraph 35 of the Petition, the Intervenors lack sufficient information to admit or deny the allegations in Paragraph 35 of the Petition and on that basis deny the same. However, it appears that applications for the grant program are publicly available online, and specifically to election offices in Georgia. *See, e.g.*, Center for Tech and Civic Life, COVID-19 Response Grants, <https://www.techandciviclife.org/our-work/election-officials/grants/> (last accessed Nov. 28, 2020).

36. Paragraph 36 of the Petition states:

CTCL put out a statement regarding the ways they intended grant recipients to improve their voting access compared to other localities. These actions were under 4 broad categories.

a. Making Voting Safe

i. Designated Polling Locations for Voters with COVID-19

ii. Partnering with Sports Arenas

iii. Controlling Long Lines

iv. Hand Delivering Ballots

- v. Reaching Voters in Nursing Homes
- vi. Promoting Curbside Voting
- vii. Expanding Vote-By-Mail Options
- b. Engaging Historically Disenfranchised Populations
 - i. Registering Voters Serving Out Felony Sentences
 - ii. Offering In-Person Voting for Incarcerated Individuals
 - iii. Educating Ex-Felons and Incarcerated Individuals
 - iv. Supporting Voters who Speak English as a Second Language
 - v. Offering Late-Night Voting Options
 - vi. Educating Native Americans
- c. Supporting Voters with Disabilities
 - i. Expanding American Sign Language Resources
 - ii. Offering Private and Independent Voting Options
 - iii. Developing Online Voting Portals
 - iv. Partnering with Disability Rights Groups
- d. Improving Access for Displaced Voters
 - i. Providing Critical Information on Election Websites
 - ii. Implementing Mobile Voter Sites
 - iii. Supporting People Experiencing Homelessness

Harding Decl, Ex. D.

Answer: In response to Paragraph 36 of the Petition, the Intervenor's lack sufficient information to admit or deny the allegations in Paragraph 36 of the Petition and on that basis deny the same. The Intervenor's admit that CTCL referenced these categories on its website. *See* 20

Ways Election Officials Increased Accessibility During the November Election, Center for Tech and Civic Life, <https://www.techandciviclelife.org/increasing-accessibility/#making-voting-safe> (last accessed Nov. 28, 2020).

37. Paragraph 37 of the Petition states:

CTCL only made this money and services available to certain counties. Moreover, CTCL only increases access to these options if the local municipality agrees to run the election according to CTCL preferences.

Answer: In response to Paragraph 37 of the Petition, the Intervenor's lack sufficient information to admit or deny the allegations in Paragraph 37 of the Petition and on that basis deny the same. However, it appears that applications for the grant program are publicly available online, and specifically to election offices in Georgia. *See, e.g.*, Center for Tech and Civic Life, COVID-19 Response Grants, <https://www.techandciviclelife.org/our-work/election-officials/grants/> (last accessed Nov. 28, 2020).

38. Paragraph 38 of the Petition states:

Consequently, numerous electors in the State of Georgia were not able to benefit from CTCL's private federal election grants making it easier to vote in-person and absentee.

Answer: In response to Paragraph 38 of the Petition, the Intervenor's lack sufficient information to admit or deny the allegations in Paragraph 38 of the Petition and on that basis deny the same.

39. Paragraph 39 of the Petition states:

Georgia is comprised of 159 counties. In 2016, Hillary Clinton garnered 1,877,963 votes in the state of Georgia. Clinton won four counties in major population centers, Fulton (297,051), Cobb (160,121), Gwinnett (166,153), and Dekalb Counties (251,370). These four counties represented 874,695 votes for Hillary Clinton.

Answer: Intervenor's admit that Georgia has 159 counties and that the New York Times published these results. Intervenor's deny each other or different allegation to the extent Petitioner's

characterization and interpretation of the results differ from the results published by the New York Times. To the extent a response is otherwise required, the Intervenor deny the allegations.

40. Paragraph 40 of the Petition states:

Georgia has 300 total drop boxes for electors to submit absentee ballots.

Answer: In response to Paragraph 40 of the Petition, the Intervenor lack sufficient information to admit or deny the allegations in Paragraph 40 of the Petition and on that basis deny the same.

41. Paragraph 41 of the Petition states:

In 2020, Georgia counties utilized CTCL funding to install additional drop boxes in areas that would make it easier for voters to cast their absentee ballot. The four counties won by the Clinton campaign contain a plurality of the drop boxes.

Answer: In response to Paragraph 41 of the Petition, the Intervenor lack sufficient information to admit or deny the allegations in Paragraph 41 of the Petition and on that basis deny the same.

42. Paragraph 42 of the Petition states:

Fulton County was home to 39 drop boxes, Cobb County provided 16 drop boxes, 23 drop boxes in Gwinnett County, and DeKalb County has 34 boxes.

Answer: The Intervenor admit that Fulton, Cobb, and Gwinnett Counties' websites state that they had the number of drop boxes alleged in Paragraph 42. The Intervenor lack sufficient information to admit or deny the allegations in Paragraph 42 regarding DeKalb County and on that basis deny the same.

43. Paragraph 43 of the Petition states:

These four localities account for 112 drop boxes, spread out over 1,587 square miles. Meaning, voters in these four Clinton strongholds have one drop box for every 14 square miles. Meanwhile, in the remaining 155 counties, spread out over 55,926 square miles, a republican voter will find one drop box for every 294 square miles.

Answer: The Intervenor's lack sufficient information to admit or deny the allegations in Paragraph 43 of the Petition and on that basis deny the same.

44. Paragraph 44 of the Petition states:

Notwithstanding the clarity of the applicable statutes and the constitutional authority for the Georgia General Assembly actions, on March 6, 2020, the Secretary of State of the State of Georgia, Secretary Raffensperger, and the State Election Board, who administer the state elections (the "Administrators") entered into a "Compromise and Settlement Agreement and Release" (the "Settlement Agreement") with the Democratic Party of Georgia, Inc., the Democrat Senatorial Campaign Committee, and the Democratic Congressional Campaign Committee (collectively, the "Democrat Party Agencies"), setting forth different standards to be followed by the clerks and registrars in processing absentee ballots in the State of Georgia. Harding Decl., Ex. E.

Answer: In response to Paragraph 44 of the Petition, the Intervenor's admit that a Compromise Settlement Agreement was reached between the Democratic Party of Georgia, Inc., the Democrat Senatorial Campaign Committee, and the Democratic Congressional Campaign Committee and Brad Raffensperger, Rebecca N. Sullivan, David J. Worley, Seth Harp, and Anh Le on March 6, 2020, referred to in the Petition as the "Settlement Agreement." The Intervenor's deny each other or different allegation.

45. Paragraph 45 of the Petition states:

The Georgia election officials' Settlement Agreement violated the Elections Clause of the Constitution, Art. 1 Sec. 4, cl. 1, Georgia Constitution and statutes. *Carson v. Simon*, 978 F.3d 1071 (C.A. 8, 2020).

Answer: Denied.

46. Paragraph 46 of the Petition states:

The Settlement Agreement sets forth different legal standards to be followed by the clerks and registrars in processing absentee ballots in the State of Georgia than those constitutionally and statutorily required.

Answer: Denied.

47. Paragraph 47 of the Petition states:

Although the State Election Board is authorized to promulgate rules and regulations that are “conducive to the fair, legal, and orderly conduct of primaries and elections,” all such rules and regulations must be “consistent with law.” Ga. Code§ 21-2-31(2).

Answer: The Intervenor's admit that the quoted language is from O.C.G.A. § 21-2-31(2) and deny each other or different allegation to the extent Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions. To the extent a response is otherwise required, the Intervenor's deny the allegations.

48. Paragraph 48 of the Petition states:

Under the Settlement Agreement, however, the State Election Board and Secretary of State agreed to change the statutorily-prescribed manner of handling absentee ballots in a manner that was not consistent with the laws promulgated by the Georgia General Assembly for elections in this state.

Answer: Denied.

49. Paragraph 49 of the Petition states:

The Settlement Agreement provides that the Secretary of State would issue an “Official Election Bulletin” to County Administrators overriding the statutory procedures prescribed for those officials. That power, however, does not belong to the Secretary of State under the Georgia Constitution and U.S. Constitution.

Answer: Denied.

50. Paragraph 50 of the Petition states:

The Settlement Agreement procedure, set forth in pertinent part below, is more cumbersome, and makes it much more difficult to follow the statute with respect to defective absentee ballots.

Answer: Denied

51. Paragraph 51 of the Petition states:

Because of the COVID-19 pandemic and the pressures created by a larger number of absentee ballots, County Officials were under great pressure to handle an historical level of absentee voting.

Answer: In response to Paragraph 51 of the Petition, the Intervenor's admit that the COVID-19 pandemic caused an increase in absentee voting in Georgia, which protected the health and safety of voters across the state. The Intervenor's deny each other or different allegation.

52. Paragraph 52 of the Petition states:

Additionally, the County Officials were required to certify the speed with which they were handling absentee ballots on a daily basis, with the goal of processing absentee ballots faster than they had been processed in the past.

Answer: In response to Paragraph 52 of the Petition, the Intervenors lack sufficient information to admit or deny the allegations in Paragraph 52 of the Petition and on that basis deny the same.

53. Paragraph 53 of the Petition states:

Under the Litigation Settlement, the following language added to the pressures and complexity of processing defective absentee ballots, making it less likely that they would be identified or, if identified, processed for rejection:

County registrars and absentee ballot clerks are required, upon receipt of each mail-in absentee ballot, to compare the signature or make of the elector on the mail-in absentee ballot envelope with the signatures or marks in eNet and on the application for the mail-in absentee ballot. If the signature does not appear to be valid, registrars and clerks are required to follow the procedure set forth in O.C.G.A. § 21-2-386(a)(1)(C). When reviewing an elector's signature on the mail-in absentee ballot envelope, the registrar or clerk must compare the signature on the mail-in absentee ballot envelope to each signature contained in such elector's voter registration record in eNet and the elector's signature on the application for the mail-in absentee ballot.

If the registrar or absentee ballot clerk determines that the voter's signature on the mail-in absentee ballot envelope does not match any application, the registrar or absentee ballot clerk must seek review from two other registrars, deputy registrars, or absentee ballot clerks. A mail-in absentee ballot shall not be rejected unless a majority of the registrars, deputy registrars, or absentee ballot clerks reviewing the signature agree that the signature does not match any of the voter's signatures on file in eNet or on the absentee ballot application. If a determination is made that the elector's signature on the mail-in absentee ballot envelope does not match any of the voter's signatures on file in eNet or on the absentee ballot application, the registrar or absentee ballot clerk shall write the names of the three elections officials who conducted the signature review across the face of the absentee ballot envelope, which shall be in addition to writing "Rejected" and the reason for the rejection as required under O.C.G.A. § 21-2-386(a)(1)(C). Then, the registrar or absentee ballot clerk shall commence the notification procedure set forth in O.C.G.A. § 21-2-386(a)(1)(C) and State Election Board Rule 183-1-14-.13. [Emphasis added].

Answer: Denied.

54. Paragraph 54 of the Petition states:

The bolded language above is not consistent with the statute adopted by the Georgia General Assembly.

Answer: Denied.

55. Paragraph 55 of the Petition states:

First, the Settlement Agreement overrides the clear statutory authorities granted to County Officials individually and forces them to form a committee of three (3) if any one official believes that an absentee ballot is a defective absentee ballot, contrary to state law.

Answer: Denied.

56. Paragraph 56 of the Petition states:

Such a procedure creates a cumbersome, unnecessary and expensive bureaucratic protocol to be followed with each questionable absentee ballot signature—and makes difficult to reject ballots. Ballots that would be rejected by the procedure as laid out in Ga. Code 21-2-396 will simply be approved by a majority of the review team.

Answer: Denied.

57. Paragraph 57 of the Petition states:

Second, the Litigation Settlement allows a county official to compare signatures in ways not permitted by the statutory structure created by the Georgia General Assembly.

Answer: Denied.

58. Paragraph 58 of the Petition states:

The Georgia General Assembly prescribed procedures to ensure that any request for an absentee ballot must be accompanied by sufficient identification of the elector's identity. *See* O.C.G.A. § 21-2-381(b)(1) (providing, in pertinent part, "In order to be found eligible to vote an absentee ballot in person at the registrar's office or absentee ballot clerk's office, such person shall show one of the forms of identification listed in Code Section 21-2-417...").

Answer: The Intervenor's admit that the quoted language is from O.C.G.A. § 21-2-381(b)(1). To the extent Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions, the Intervenor's deny the allegations. To the extent a response is otherwise required, the Intervenor's deny the allegations.

59. Paragraph 59 of the Petition states:

Under O.C.G.A. § 21-2-220(c), the elector must present identification, but need not submit identification if the electors submit with their application information such that the county officials are able to match the elector's information with the state database, generally referred to as the eNet system.

Answer: Paragraph 59 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions, the Intervenor deny the allegations. To the extent a response is otherwise required, the Intervenor deny the allegations.

60. Paragraph 60 of the Petition states:

The system for identifying absentee ballots was carefully constructed by the Georgia General Assembly to ensure that electors were identified by acceptable identification (O.C.G.A. § 21-2-417 even permits the use of an expired driver's license), but at some point in the process, the Georgia General Assembly mandated the system whereby the elector be identified for each absentee ballot.

Answer: Paragraph 60 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions, the Intervenor deny the allegations. To the extent a response is otherwise required, the Intervenor deny the allegations.

61. Paragraph 61 of the Petition states:

Under the Settlement Agreement, any determination of a signature mismatch would lead to the cumbersome process described in the settlement, which was not intended by the Georgia General Assembly, which authorized those decisions to be made by single election officials.

Answer: Denied.

62. Paragraph 62 of the Petition states:

Georgia law requires that its election officials enforce residency requirements on voters. Ga. Code § 21-2-218.

Answer: Paragraph 62 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is otherwise required, the Intervenor deny the allegations because Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions.

63. Paragraph 63 of the Petition states:

Georgia election officials had residency information to verify that an actual person was voting according to their residence. Ga. Code§ 21-2-211.

Answer: Denied. Paragraph 63 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions, the Intervenor deny the allegations. To the extent a response is otherwise required, the Intervenor deny the allegations.

64. Paragraph 64 of the Petition states:

Georgia election officials violated Georgia law in not applying this change of address information to enforce residency requirements on voters who changed residency before the November 3, 2020 election. Ga. Code§ 21-2-211.

Answer: Denied.

65. Paragraph 65 of the Petition states:

Georgia law requires that its election officials enforce the prohibition on one person voting more than once. Ga. Code§ 21-2-572.

Answer: Paragraph 65 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is otherwise required, the Intervenor deny the allegations because Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions.

66. Paragraph 66 of the Petition states:

Georgia election officials have access to information to prevent double voting. Ga. Code § 21-2-211.

Answer: Paragraph 66 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is otherwise required, the Intervenor deny the allegations because Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions.

67. Paragraph 67 of the Petition states:

Georgia election officials violated Georgia law in not applying this information to enforce Georgia's prohibition on double voting before the November 3, 2020 election.

Answer: Denied.

68. Paragraph 68 of the Petition states:

The people of Georgia had complaints about election officials' activities regarding the November 3 election. Harding Decl., Ex. G.

Answer: In response to Paragraph 68 of Plaintiff's Petition, the Intervenor lack sufficient information to admit or deny the allegations in Paragraph 68 of Plaintiff's Petition and on that basis deny the same.

69. Paragraph 69 of the Petition states:

The Georgia government's data was reviewed and presented by data analyst Matthew Braynard in an accompanying report. Braynard Decl.

Answer: The Intervenor admit that Petitioner filed a Declaration from Matthew Braynard but deny that he is qualified to opine as an expert in this subject area.

70. Paragraph 70 of the Petition states:

Dr. Qianying (Jennie) Zhang also provided an accompanying report based on statistical extrapolation from the data analysis of Matthew Braynard.

Answer: The Intervenor admit that Petitioner filed a declaration from Dr. Qianying Zhang but deny that Dr. Zhang is qualified to opine as an expert in this subject area.

71. Paragraph 71 of the Petition states:

Additionally, as to absentee voters, according to polling by John McLaughlin, Biden voters were significantly more likely (approximately 62%) to vote absentee than other candidates. McLaughlin Decl.

Answer: The Intervenor admits that Petitioner filed a Declaration from John McLaughlin but deny the allegations in Paragraph 71.

72. Paragraph 72 of the Petition states:

Based on the government's data and analysis, it is estimated that 20,431 is the minimum number of absentee ballots requested which were not requested by the person identified in Georgia's database. Braynard Decl.; Zhang Decl.

Answer: Denied.

73. Paragraph 73 of the Petition states:

Based on the government's data and analysis, it is estimated that 43,688 is the minimum number of absentee ballots that the requester returned but were not counted. Braynard Decl.; Zhang Decl.

Answer: Denied.

74. Paragraph 74 of the Petition states:

Based on the government's data, it is estimated that 138,221 electors voted where they did not reside. Braynard Decl.

Answer: Denied.

75. Paragraph 75 of the Petition states:

Based on the government's data, it is estimated that 20,312 out-of-state residents voted in Georgia. Braynard Decl.

Answer: Denied.

76. Paragraph 76 of the Petition states:

Based on the government's data, it is estimated that there were 395 double votes in Georgia. Braynard Decl.

Answer: Denied.

77. Paragraph 77 of the Petition states:

In summary, based on the government's data, it is estimated that there were 204,143 illegal votes counted and legal votes not counted-exceeding the Presidential contest margin of 12,670 votes in Georgia. Braynard Deel.; Zhang Decl.

Answer: Denied.

78. Paragraph 78 of the Petition states:

Georgia election officials' material violations of Georgia election law placed the results of a close Presidential election in Georgia in doubt and are null and void, as a matter of law. Ga. Code § 21-2-527.

Answer: Denied.

79. Paragraph 79 of the Petition states:

Georgia election officials' material violations of Georgia election law violated the voters due process rights under the state constitution and constituted and placed the results of a close Presidential election in Georgia in doubt and are null and void, as a matter of law. Ga. Code§ 21-2-527.

Answer: Denied.

80. Paragraph 80 of the Petition states:

Georgia election officials' material violations of Georgia election law violated the voters equal protection rights under the state constitution and placed the results of a close Presidential election in Georgia in doubt and are null and void, as a matter of law. Ga. Code§ 21 -2-527.

Answer: Denied.

81. Paragraph 81 of the Petition states:

Georgia election officials violated the Elections Clause and Electors Clause of the United States Constitution and placed the results of a close Presidential election in Georgia in doubt and are null and void, as a matter of law. U.S. Constitution Art. 1 Sec. 4 cl. 1 and Georgia Code§ 21-2-527.

Answer: Denied.

82. Paragraph 82 of the Petition states:

Since the election result is legally null and void, the State of Georgia and the Secretary of State should be enjoined from certifying the election result so that the Georgia General Assembly can lawfully appoint the electors.

Answer: Denied.

83. Paragraph 83 of the Petition states:

The Governor of the State of Georgia should be enjoined to certify the Presidential electors under 3 U.S.C. § 6 appointed by the Georgia General Assembly.

Answer: Denied.

WHEREFORE, THE CONTESTANT PRAYS:

1. Paragraph 1 of Petitioner's Prayer for Relief states:

That the Court **ISSUES** a declaratory judgment that Georgia election officials' material violations of Georgia election law placed the results of a close Presidential election in Georgia in doubt and are null and void, as a matter of law;

Answer: Denied.

2. Paragraph 2 of Petitioner's Prayer for Relief states:

That the Court **ISSUES** a declaratory judgment that Georgia election officials' material violations of Georgia election law violated the voters' due process rights under the state constitution and constituted and placed the results of a close Presidential election in Georgia in doubt and are null and void, as a matter of law;

Answer: Denied.

3. Paragraph 3 of Petitioner's Prayer for Relief states:

That the Court **ISSUES** a declaratory judgment that Georgia election officials' material violations of Georgia election law violated the voters' equal protection rights under the state constitution and placed the results of a close Presidential election in Georgia in doubt and are null and void, as a matter of law;

Answer: Denied.

4. Paragraph 4 of Petitioner's Prayer for Relief states:

That the Court **ISSUES** a declaratory judgment that Georgia election officials violated the Elections Clause and Electors Clause of the U.S. Constitution;

Answer: Denied.

5. Paragraph 5 of Petitioner's Prayer for Relief states:

That the Court **ISSUES** an injunction enjoining the Secretary of State or any election body official in the State of Georgia from certifying the Presidential election so that the Georgia General Assembly can lawfully appoint the electors;

Answer: Denied.

6. Paragraph 6 of Petitioner's Prayer for Relief states:

That the Court **ISSUES** an injunction requiring the Governor of the State of Georgia to certify the Presidential electors under 3 U.S.C. § 6 appointed by the Georgia General Assembly if any;

Answer: Denied.

7. Paragraph 7 of Petitioner's Prayer for Relief states:

Or in the alternative, the Court **ORDERS** a second Presidential election in the entirety of the State of Georgia at a certain date and time, to include requiring the Georgia elections officials to abide by state law and provide transparency;

Answer: Denied.

8. Paragraph 8 of Petitioner's Prayer for Relief states:

That the Court **GRANTS** any other relief the Court **DEEMS** just and proper.

Answer: Denied regarding any relief that Petitioner seeks.

FIRST AFFIRMATIVE DEFENSE

Petitioner's claims are barred in whole or in part because this Court lacks jurisdiction to adjudicate Petitioner's claims where Petitioner has named the wrong defendants in the Petition, lacks standing, and has requested relief contrary to law and which this Court cannot grant.

SECOND AFFIRMATIVE DEFENSE

Petitioner's election contest is improper because he cannot contest the election of presidential electors.

THIRD AFFIRMATIVE DEFENSE

Petitioner's Petition fails to state a claim upon which relief can be granted.

FOURTH AFFIRMATIVE DEFENSE

Petitioner's Petition is barred by the equitable doctrine of laches.

PROPOSED INTERVENORS' REQUEST FOR RELIEF

Having answered Petitioner's Petition, the Intervenor request that the Court:

1. Deny Petitioner is entitled to any relief;
2. Dismiss Petitioner's Petition with prejudice;
3. Grant such other and further relief as this Court deems just and proper.

Dated: November 30, 2020.

Respectfully submitted,

/s/Adam M. Sparks

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**Pro Hac Vice Application Forthcoming*

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IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

John Wood,

Contestant,

v.

Brad Raffensperger, in his official capacity of
Secretary of State of the State of Georgia; and Brian
Kemp, in his official capacity as Governor of the
State of Georgia.

Defendants.

Civ. Act. No. 2020CV342959

[Proposed] Order Granting Motion to Intervene

Upon consideration of the Motion to Intervene by Proposed Intervenor-Defendants, the Court having considered the Motion, the Memorandum of Law in support thereof, and any opposition thereto, it is hereby ORDERED that the Motion is GRANTED.

It is further ORDERED that the proposed pleadings to the Motion to Intervene shall constitute the initial pleadings of the Proposed Intervenor-Defendants and shall be deemed to have been filed this date.

IT IS SO ORDERED, this ___st day of December, 2020.

The Hon. Jane C. Barwick
Judge, Fulton County Superior Court

Prepared by:

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Secretary of State of the State of Georgia; and Brian
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Defendants.

Civ. Act. No. 2020CV342959

Proposed Motion To Dismiss Petition for Election Contest

Gloria Butler, Bobby Fuse, Deborah Gonzalez, Stephen Henson, Van Johnson, Pedro Marin, Fenika Miller, Ben Myers, Rachel Paule, Calvin Smyre, Robert Trammell Jr., Manoj S. “Sachin” Varghese, Nikema Williams, and Cathy Woolard (collectively, the “Biden Electors”) move to dismiss John Wood’s Election Contest.

For the reasons discussed in the memorandum in support filed concurrently herewith, the Biden Electors move to dismiss the contest because it is barred by the doctrine of laches, is prohibited under Georgia law, and fails to state a claim upon which relief can be granted.

WHEREFORE, the Biden Electors respectfully request that the Court grant their motion to dismiss Wood’s Election Contest in the above-captioned matter.

Dated: November 30, 2020.

Respectfully submitted,

/s/ Adam M. Sparks

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**Pro Hac Vice Application Forthcoming*

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IN THE SUPERIOR COURT OF FULTON COUNTY
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Brief in Support of Proposed Motion to Dismiss Petition for Election Contest

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I. INTRODUCTION

President-Elect Joseph R. Biden, Jr. won the popular vote in Georgia in the presidential race. A hand recount of every vote for president cast in Georgia in the November election arrived at the same result. As a result, Secretary of State Brad Raffensperger (the “Secretary”) certified the election results to formally declare Mr. Biden the winner, and Governor Brian Kemp in turn certified a slate of 16 presidential electors nominated by the Democratic Party to the electoral college. Those electors include the Intervenor to this action who are now empowered to and intend to cast Georgia’s electoral college votes for Biden (collectively the “Biden Electors”).

The Contestant who filed this petition is John Wood, a Georgia voter who had hoped that Donald J. Trump would win and be awarded Georgia’s votes at the coming meeting of the electoral college, which is required by federal law to take place on December 14. Unhappy with the actual results of the election, Wood now seeks to enlist this Court to undo them, based on claims that have already been thoroughly rejected by other courts (including in a prior case that Wood himself brought), Wood’s allegations consist of nothing more than conspiracy theories, speculation, and conjecture, including the truly absurd claims that a social media CEO allegedly dictated the election’s outcome. The relief that Wood seeks is as unprecedented and unjustifiable as his extraordinary claims: a judicial declaration that would (1) render the results of Georgia’s presidential election “null and void,” and (2) permit the General Assembly to subvert democracy by appointing a new slate of presidential electors entirely untethered to the will of Georgia’s voters. No less unsound is Wood’s alternative request that the Court order a “second Presidential election.” And all of the relief that Wood seeks threatens Georgia’s ability to meet the federal “safe harbor” deadline (which gives conclusive effect to electoral votes as to which a “final determination of any controversy or contest concerning the appointment of” the electors has been made).

Simply put, Wood attempts to use this Court as a cudgel to fundamentally convert the state's political structure into something deeply undemocratic and unthinkable to generations of Americans who have long held an enduring faith in the fundamental precept that in this country, voters elect candidates—not courts or lawyers (or, in this case, a single litigant, unhappy with the way in which his fellow citizens voted). By all credible accounts, the November 2020 election was one of the most secure in Georgia's history. Nevertheless, there has been a concerted effort by a handful of actors to sow doubt and confusion about its results, both nationally and here in Georgia.

In Georgia alone, voters—including John Wood—have made these same baseless claims and sought the same extraordinary relief in at least two other cases. The courts in both cases handily and decisively struck those arguments down. *See Ga. Voter All. v. Fulton Cnty.*, No. 1:20-CV-4198-LMM, 2020 WL 6589655 (N.D. Ga. Oct. 28, 2020) (Wood's prior case challenging same Center for Technology and Civic Life grants at issue here); *see also Wood v. Raffensperger*, No. 1:20-CV-04651-SDG, 2020 WL 6817513 (N.D. Ga. Nov. 20, 2020) (case challenging same March 2020 settlement agreement regarding absentee voting at issue here).¹ As with these other fatally flawed actions, Wood's Petition is riddled with fatal procedural defects and makes claims that cannot be sustained as a matter of law. This Court should dismiss the Petition in its entirety with prejudice.

¹ *Wood v. Raffensperger* was brought by L. Lin Wood who, as far as Intervenor can tell, has no relation to the contestant in the present action. Contestant John Wood was a litigant in *Georgia Voters Alliance v. Raffensperger*.

II. FACTS

A. The 2020 General Election²

On November 3, 2020, Georgia voters chose former Vice President and now President-Elect Biden as the United States' next President. The state's certified vote count confirms that President-Elect Biden defeated Donald J. Trump by 12,670 votes in the state of Georgia.³ As a result, the Biden Electors were certified by the Governor and appointed to the Electoral College. Attorney's Affidavit of Adam M. Sparks, Ex. 1.

On November 11, following unsubstantiated complaints from Republican leaders about the integrity of the election, the Secretary announced that a statewide hand recount of the presidential election would take place.⁴ *See* Mot. to Intervene, Exs. 2, 3. The hand recount began on November 12, and it concluded without issue on November 18. No significant irregularities in the original counts or the recount were reported. On November 20, the Secretary certified the results of the election, confirming the Biden Electors' victory and certifying that the "consolidated returns for state and federal offices are a true and correct tabulation of the certified returns received by this

² The Court may take judicial notice of these election-related facts from the public record without converting this motion into a motion for summary judgment because they are "not subject to reasonable dispute"; that is, they all are either "[g]enerally known within the territorial jurisdiction of the court" or "[c]apable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." O.C.G.A. § 24-2-201(b); *see also Hunter v. Will*, 352 Ga. App. 479, 484 (2019) ("[A] trial court may take judicial notice of a fact which is not subject to reasonable dispute . . ."). "Judicial notice may be taken at any stage of the proceeding." *Id.* (quoting OCGA § 24-2-201(f)).

³ Kate Brumback, *Georgia officials certify election results showing Biden win*, AP (Nov. 20, 2020), <https://apnews.com/article/georgia-certify-election-joe-biden-ea8f867d740f3d7d42d0a55c1aef9e69>.

⁴ Tal Axelrod, *Georgia secretary of state announces hand recount of presidential race*, The Hill (Nov. 11, 2020), <https://thehill.com/homenews/campaign/525476-georgia-secretary-of-state-announces-hand-recount>.

office from each county.”⁵ The Governor then issued final certificates of ascertainment declaring that the Biden Electors “were appointed Electors of President and Vice President of the United States for the State of Georgia” Sparks Aff., Ex. 1.

The next day—despite a comprehensive hand recount of every single ballot having just occurred—President Trump’s reelection campaign issued a “Recount Demand” to the Secretary, “pursuant to O.C.G.A. § 21-2-495 (c) and State Board Rule 183-1-15.03,” in which it sought a second recount of the presidential election results, this time to be conducted by machine. Sparks Aff., Ex. 4. The machine recount, which will utilize ballot scanners, will be the *third* time votes are counted in the presidential race. It is already underway and must be completed by December 2.⁶

B. The Petition and its Factual Predicates

On November 25, Wood filed this Petition challenging the results of the presidential election under O.C.G.A. §§ 21-2-520 *et seq.*, Georgia’s election-contest statute, and naming the Secretary and Governor as Defendants. The Petition—which, contrary to the Georgia contest statute, was not verified, *id.* § 21-2-524(d)—offers a conspiracy theory that a 501(c)(3) organization’s grants to assist localities in conducting safe elections is actually a “‘shadow government’ operation” through which a social media CEO allegedly dictated the outcome of the election, Pet. at 4; an unsupported “estimated number of illegal votes counted,” based only on

⁵ Michelle Ye Hee Lee, *Georgia certifies election results — the first to do so among states where Trump is mounting legal challenges*, Wash. Post (Nov. 20, 2020), https://www.washingtonpost.com/politics/georgia-certifies-election-results--the-first-to-do-so-among-states-where-trump-is-mounting-legal-challenges/2020/11/20/66c77530-2b4b-11eb-9b14-ad872157ebc9_story.html.

⁶ Kate Brumback, *Georgia counties set to start recount requested by Trump*, AP (Nov. 23, 2020), <https://apnews.com/article/election-2020-joe-biden-donald-trump-georgia-state-elections-352e729f14a243b98fdefda94ff164ce>.

“statistical extrapolation,” *id.* at 3, ¶ 70; and conclusory, baseless allegations that election officials failed to follow state and federal law. *See generally id.* He brings his specific claims under Georgia’s due process and equal protection clauses as well as the Elections and Electors Clauses of the U.S. Constitution. *See* Pet. ¶¶ 79-81. These claims are based on the four factual predicates, which Wood claims warrant the wholesale nullification of Georgia’s presidential election results as well as the selection of a new slate of presidential electors by the General Assembly or, alternatively, holding a second presidential election. Pet. at 26-27.

1. Grants from the Center for Tech and Civic Life

Wood alleges that Fulton County and approximately twelve other Georgia counties entered into agreements with the Center for Tech and Civil Life (“CTCL”) to receive monetary grants to administer the 2020 presidential election. Pet. ¶¶ 29, 33-34. He asserts, in pertinent part, that (1) these grants were only made available to certain counties,” (2) they were only provided if “the local municipality agree[d] to run the election according to CTCL preferences,” *id.* ¶ 37, and that (3) counties that received CTCL grants had more drop-boxes per square mile than did the rest of the state, *id.* at ¶ 43. From these allegations Wood concludes that “numerous electors in the State of Georgia were not able to benefit from CTCL’s private federal election grants making it easier to vote in-person and absentee.” *Id.* ¶ 38.

This is not the first time that similar claims have been brought concerning CTCL grants. In fact, it is not even the first time that *Wood himself* has brought litigation making these allegations. In each prior case, courts have quickly rejected the arguments that Wood seeks to make again here. *See Ga. Voters All.*, 2020 WL 6589655, at *1-2. In fact, the court in *Georgia Voters Alliance* drew several conclusions that effectively foreclosed Wood’s claims, including that, “Georgia law leaves it to counties to fund election expenditures that exceed federal and state funds” and, “[b]y applying for and accepting the CTCL grant, [a c]ounty is merely exercising its

prerogative of locating funding.” *Id.* at *3. After losing on his motion for temporary restraining order, Wood voluntarily dismissed his case. Notice of Voluntary Dismissal, *Ga. Voter All.*, No. 1:20-cv-04198, Doc. 19 (Nov. 4, 2020). As least seven other such cases have been brought across the country. None have succeeded.⁷

2. Settlement Agreement Regarding Absentee Voting

a. The Petition’s Allegations

Wood also evokes as a basis for his contest a March 2020 settlement agreement (the “Settlement Agreement”) entered into by the Secretary and the State Election Board (the “Board”), on the one hand, and the Democratic Party of Georgia, DSCC, and DCCC (collectively, the “Political Party Committees”), on the other. He asserts that the signature matching process resulting from the Agreement made it more difficult to reject absentee ballots, Pet. ¶ 56, and is out of line with Georgia’s election code, *id.* ¶ 57. Much like Wood’s failed CTCL case, his attack on the Settlement Agreement has also already been made in and rejected by another Georgia court. *See infra* Sections II.B.2.b, IV.A.

⁷ *See Texas Voters All. v. Dallas Cnty.*, No. 4:20-CV-00775, 2020 WL 6146248, at *4 (E.D. Tex. Oct. 20, 2020) (denying motion for preliminary injunctive relief based on, among other things, failure to establish both standing and likelihood of success on the merits); *see also id.* (E.D. Tex. Nov. 17, 2020) (subsequently voluntarily dismissing case); *Pa. Voters All. v. Ctr. Cnty.*, No. 4:20-CV-01761, 2020 WL 6158309, at *1 (M.D. Pa. Oct. 21, 2020), *aff’d* (3d. Cir. Nov. 23, 2020); *Election Integrity Fund v. City of Lansing*, No. 1:20-CV-950, 2020 WL 6605987, at *3 (W.D. Mich. Oct. 19, 2020) (denying preliminary injunctive relief based on, among other things, failure to establish standing); *Iowa Voter All. v. Black Hawk Cnty.*, No. C20-2078-LTS, 2020 WL 6151559, at *5 (N.D. Iowa Oct. 20, 2020) (denying motion for preliminary injunctive relief based on failure to establish likelihood of success on the merits); *Minn. Voters All. v. City of Minneapolis*, No. CV 20-2049 (MJD/TNL), 2020 WL 6119937, at *8 (D. Minn. Oct. 16, 2020) (denying motion for preliminary injunctive relief based on failure to establish standing); *S.C. Voter’s All. v. Charleston Cnty.*, No. 2:20-3710-RMG (D.S.C. Oct. 26, 2020) (denying motion for preliminary injunctive relief based on, among other things, failure to establish likelihood of success on the merits); *see also id.* (D.S.C. Nov. 17, 2020 subsequently voluntarily dismissing case).

b. The Underlying Settlement Agreement

The Settlement Agreement resolved a case the Political Party Committees filed in November 2019 challenging Georgia's signature-matching and cure procedures under the U.S. Constitution. The Political Party Committees asserted that Georgia's arbitrary and unreliable procedures for comparing absentee ballot signatures and rejecting absentee ballots unconstitutionally deprived Georgians of their right to vote. Compl., *Democratic Party of Ga., Inc. v. Raffensperger*, No. 1:19-cv-5028, Doc. 1 (N.D. Ga. Nov. 6, 2019).

On March 6, 2020, the parties entered into the Settlement Agreement, which was publicly docketed that same day. As memorialized therein, the Secretary and Board maintained that Georgia's laws and processes were constitutional. Am. Compl. Ex. A, *Wood v. Raffensperger*, No. 1:20-cv-04651, Doc. 5-1 at 1-2 (N.D. Ga. Nov. 17, 2020). They did not agree to modify Georgia's elections statutes. *See id.* Rather, the Board implemented its revised absentee ballot cure process by way of State Election Board ("S.E.B.") Rule 183-1-14-.13. *See* O.C.G.A. § 50-13-4. Under this rule, which was adopted after multiple rounds of formal rulemaking and public comment, counties are to contact voters about rejected mail ballots within three business days after receipt of the absentee ballot and within one business day for any ballots rejected within eleven days of election day. *See* Ga. Comp. R. & Regs. 183-1-14-.13 (Amended March 22, 2020); Ga. Comp. R. & Regs. 183-1-14-.13 (May 21, 2020); Ga. Comp. R. & Regs. 183-1-14-.13 (Aug. 31, 2020).

On May 1, the Secretary issued an Official Election Bulletin ("OEB") addressing the signature matching procedures, providing that after an election official makes an initial determination that the signature on the absentee ballot envelope does not match the signature on file for the voter pursuant to O.C.G.A. §21-2-386(a)(1)(B) and (C), two additional registrars, deputy registrars, or absentee ballot clerks should also review the envelope. *Wood*, 2020 WL

6817513 at *3. When two officials agree the signature does not match, the ballot is rejected. *Id.* These changes were widely publicized and in place for several subsequent elections, including the June 9 primary, the August 11 primary runoff, and the November 3 general elections. Ballots were rejected for signature mismatches in all elections; indeed, “the percentage of absentee ballots rejected for missing or mismatched information and signature is the exact same for the 2018 [general] election and the [2020 g]eneral [e]lection.” *Wood*, 2020 WL 6817513 at *10. Notably, just weeks ago the Settlement Agreement was challenged on virtually the same grounds in federal court. *Wood*, 2020 WL 6817513 at *1-2. The court in that case thoroughly rebuked the plaintiff’s claims, concluding:

Wood seeks an extraordinary remedy: to prevent Georgia’s certification of the votes cast in the General Election, after millions of people had lawfully cast their ballots. To interfere with the result of an election that has already concluded would be unprecedented and harm the public in countless ways. Granting injunctive relief here would breed confusion, undermine the public’s trust in the election, and potentially disenfranchise of over one million Georgia voters. Viewed in comparison to the lack of any demonstrable harm to Wood, this Court finds no basis in fact or in law to grant him the relief he seeks.

Id. at 13 (citations omitted).

3. Enforcement of Residency Requirements and Prohibition on Double Voting

The Petition’s third and fourth premises are that Georgia’s election officials did not enforce state law residency requirements on voters who changed addresses before the November 3, 2020 election, and that Georgia’s election officials did not enforce state law against double voting. But the Petition does not allege any specific facts regarding either of these alleged failures, *see* Pet. ¶¶ 62-64 (residency requirements); ¶¶ 65-67 (double-voting).

III. LEGAL STANDARD

An election contest “vests in trial courts broad authority to manage the proceeding” to “balance[] citizens’ franchise against the need to finalize election results, which, in turn, facilitates

the orderly and peaceful transition of power that is a hallmark of our government.” *Martin v. Fulton Cnty. Bd. of Registration & Elections*, 307 Ga. 193, 194 (2019). Under Georgia law, an action can be dismissed because the litigant failed to state a claim upon which relief can be granted. O.C.G.A. § 9-11-12(b). Intervenor respectfully request that the Court grant their motion to dismiss Wood’s petition. It is barred by laches. It falls outside the scope of Georgia’s election contest statute. And it fails to state a claim upon which relief can be granted and is not well-grounded in fact or warranted by existing law.

IV. ARGUMENT

A. Wood’s Petition is barred by laches.

The Petition is barred by the equitable doctrines of laches. Laches may bar a claim when time has lapsed such that it would be inequitable to permit the claim against the defendant to be enforced. *See Waller v. Golden*, 288 Ga. 595, 597 (2011). Under Georgia law, laches may bar a complaint when (1) the lapse of time and (2) the claimant’s neglect in asserting rights (3) prejudiced the adverse party. *Id.* All three elements are satisfied here.

Wood’s delay in challenging the CTCL grants and Settlement Agreement until after the presidential election are patently unreasonable. Wood challenges the validity of the presidential election and asks this Court to change the rules that applied to it after it has already been conducted. But the State expended substantial resources in ensuring that the election took place in a secure and lawful manner. Untold numbers of Georgians devoted countless hours, at significant personal risk during a pandemic, to prepare for and hold the election, and then to tally the vote not once, not twice, but *three times*. And Georgia voters relied upon the election procedures in casting their ballots as directed. Wood now asks this Court to undo all of those efforts and abrogate the fundamental right to vote for all Georgians based on constitutional challenges to the CTCL grants and the Settlement Agreement, both of which Wood has known about for months.

Wood himself filed a case in federal district court right before the election and sought a temporary restraining order to prevent one Georgia county from using its CTCL grant money in the November election. The district court denied Wood's motion, finding that "Georgia law leaves it to counties to fund election expenditures that exceed federal and state funds" and that "[b]y applying for and accepting the CTCL grant, Fulton County is merely exercising its prerogative of locating funding. Plaintiffs have not clearly shown that Fulton County's chosen source of funding undermines Georgia's power to set the time, place, and manner of elections." *Ga. Voter All.*, 2020 WL 6589655, at *3. Wood could have continued to litigate this claim, but instead he dismissed. *See supra* 6. After waiting more than two weeks—through the pendency of *two* recounts—Wood now seeks to bring the same challenge again, wrapped up in a package that would disenfranchise millions of Georgia voters if granted.

Wood was also certainly aware of the Settlement Agreement before the election. That Agreement was entered into six months before election day. In a post-election constitutional challenge to the Settlement Agreement that another litigant brought in federal court, the judge concluded that identical claims about the Settlement Agreement were barred by laches because the plaintiff "could have, and should have, filed his constitutional challenge much sooner than he did, and certainly not two weeks *after* the General Election." *Wood*, 2020 WL 6817513 at *7. This conclusion is, of course, equally applicable to Wood's challenge here.

Nor can there be serious doubt that Wood's unjustifiable delay has prejudiced not only elections officials, but millions of Georgia voters, who dutifully cast their votes according to the rules and practices that Wood could have challenged prior to the election. Indeed, courts regularly find that even pre-election challenges that are brought too close to an election are barred. Here, Wood waited until the election and then some. This Court should find that laches firmly bars this

action. *See, e.g., Fulani v. Hogsett*, 917 F.2d 1028, 1031 (7th Cir. 1990) (“In the context of elections ... any claim against a state electoral procedure must be expressed expeditiously” because, “[a]s time passes, the state’s interest in proceeding with the election increases in importance as resources are committed and irrevocable decisions are made.”); *see also Clark v. Reddick*, 791 N.W.2d 292, 294-96 (Minn. 2010) (declining to hear ballot challenge when petitioner delayed filing until 15 days before absentee ballots were to be made available); *Knox v. Milwaukee Cty. Bd. of Election Comm’rs*, 581 F. Supp. 399, 402 (E.D. Wis. 1984) (denying preliminary injunction where complaint was filed seven weeks before election).

That these claims are raised in the context of a contest does not alter the result. Typically, an election contest is brought to challenge some alleged error or impropriety in the election that could not have been reasonably predicted before the election. Here, by contrast, the bases of Wood’s contest—CTCL grants to some Georgia counties and the Settlement Agreement regarding absentee voting—were known by Wood well before the election. By the time Wood filed this action, the presidential election had been over for three weeks, and more than 5 million Georgians had voted. Numerous courts have likewise denied extraordinary relief in election-related cases due to laches or similar considerations.⁸ As one court explained, “[a]s time passes, the state’s interest

⁸ *See, e.g., Clark v. Reddick*, 791 N.W.2d 292, 294-296 (Minn. 2010); *see also Nader v. Keith*, 385 F.3d 729, 736 (7th Cir. 2004) (“It would be inequitable to order preliminary relief in a suit filed so gratuitously late in the campaign season.”); *Fulani*, 917 F.2d at 1031 (denying relief where plaintiffs’ delay risked “interfer[ing] with the rights of other Indiana citizens, in particular the absentee voters”); *Kay v. Austin*, 621 F.2d 809, 813 (6th Cir. 1980) (laches barred claims where candidate waited two weeks to file suit and preliminary election preparations were complete); *McCarthy v. Briscoe*, 539 F.2d 1353, 1354-1355 (5th Cir. 1976) (denying emergency injunctive relief where election would be disrupted by lawsuit filed in July seeking ballot access in November election); *Navarro v. Neal*, 904 F. Supp. 2d 812, 816 (N.D. Ill. 2012) (“By waiting so long to bring this action, plaintiffs ‘created a situation in which any remedial order would throw the state’s preparations for the election into turmoil.’”), *aff’d*, 716 F.3d 425 (7th Cir. 2013); *State ex rel. Schwartz v. Brown*, 197 N.E.2d 801 (Ohio 1964) (dismissing mandamus complaint to place candidate on ballot after ballot form was certified).

in proceeding with the election increases in importance as resources are committed and irrevocable decisions are made, and the candidate's claim to be a serious candidate who has received a serious injury becomes less credible by his having slept on his rights." *Kay v. Austin*, 621 F.2d 809, 813 (6th Cir. 1980). That principle applies with even greater force here, where the election is not merely imminent, but over.

B. Georgia law does not permit a contest for the election of presidential electors.

Presidents are not directly elected by Georgia voters; rather, Georgia's electorate selects presidential electors who then vote for presidential candidates on behalf of the state at the Electoral College. Georgia's Election Code states, "[a]t the November election to be held in the year 1964 and every fourth year thereafter, there shall be elected by the electors of this state persons to be known as *electors of President and Vice President* of the United States" O.C.G.A. § 21-2-10 (emphasis added). Wood purports to contest the "result of the November 3, 2020 general election for President and Vice President," but no such election exists. Rather, "[w]hen *presidential electors are to be elected*, the ballot shall not list the individual names of the candidates for presidential electors but shall list the names of each political party and body and the names of the political party or body candidates for the office of President and Vice President." O.C.G.A. § 21-2-379.5(e) (emphasis added). The Georgia Supreme Court has confirmed that Georgia presidential elections are actually "election[s] for presidential electors." *Rose v. State*, 107 Ga. 697 (1899); *Franklin v. Harper*, 205 Ga. 779, 785 (1949) (describing an "election . . . for presidential electors"); *Moore v. Smith*, 140 Ga. 854 (1913) (same). The U.S. Supreme Court reiterated this understanding in a decision issued earlier this year. See *Chiafalo v. Washington*, 140 S. Ct. 2316, 2319 (2020) ("[M]illions of Americans cast a ballot for a presidential candidate. Their votes, though, actually go toward selecting members of the Electoral College, whom each State appoints based on the popular returns. Those few 'electors' then choose the President.").

Georgia's election contest statutes only apply to "federal, state, county, or municipal office[s]." *See* O.C.G.A. § 21-2-521. The Petition should be dismissed outright because Wood does not—and cannot—show that presidential electors fall into any of these categories. A presidential elector is obviously not a municipal or county officer, as they serve no local role and are selected on a statewide basis. Further, federal presidential electors are not state officers—they are appointed pursuant to and act pursuant to the U.S. Constitution. *See* U.S. Const. art. II, § 1, cl. 2 ("Each State shall appoint ... a Number of Electors,"); *see also id.* amend. XII; 3 U.S.C. § 3 (setting forth the number of Electors by state). Rather than serving as state officers, the U.S. Supreme Court has found that "[t]he presidential electors exercise a federal function in balloting for President and Vice-President" *Ray v. Blair*, 343 U.S. 214, 224 (1952). The Supreme Court went on to clarify that electors are *also* not federal officers. *See id.* ("The presidential electors . . . are not federal officers or agents . . .").

Various provisions of state law fortify the conclusion that a presidential elector in Georgia is neither a state nor federal office. For example, O.C.G.A. § 21-2-153, which describes the qualifications of candidates in state primaries, has one subsection that pertains to "[a]ll qualifying for federal and state offices" and a separate subsection that addresses "[a]ll qualifying for the office of presidential elector" Similarly, O.C.G.A. § 21-2-132, which pertains to filing a notice of candidacy, provides one set of procedures for "[e]ach elector for President or Vice President of the United States" and a separate procedure for "[e]ach candidate for United States Senate, United States House of Representatives, or state office." Presidential electors cannot be state or federal officers, otherwise language that separates *all* electors from *all* federal and state officers would be meaningless. "[I]t is well established that a statute 'should be construed to make all its parts harmonize and to give a sensible and intelligent effect to each part.'" *Premier Health Care Invs.,*

LLC v. UHS of Anchor, L.P., No. S19G1491, 2020 WL 5883325, at *9 (Ga. Oct. 5, 2020) (quoting *Hall Cnty. Bd. of Tax Assessors v. Westrec Props., Inc.*, 303 Ga. 69, 77 (2018)).

Election contests under O.C.G.A. § 21-2-521 are limited to elections for federal, state, county, or municipal officers, but electors are none of these. This contest must be dismissed.

C. The Petition fails to state a claim upon which relief can be granted.

Even if Wood's Petition could be brought under O.C.G.A. § 21-2-521 (and for the reasons discussed above, it cannot), it must independently be dismissed because it fails to state claim upon which relief can be granted. Wood's entire contest is based on the premise that the presidential election is in doubt because Georgia election officials allegedly violated the Georgia Constitution's due-process and equal-protection clauses and the U.S. Constitution's Elections and Electors clauses. But none of the factual predicates underlying these claims give way to the alleged constitutional violations supporting Woods contest.⁹

1. The Petition fails to state a due process claim.

None of Wood's allegations support even the inference that his (or any other Georgia voter's) due process rights were violated in the 2020 general election. Georgia's due-process clause prohibits the state from depriving any person of life, liberty, or property without due process of law. *Atlanta City Sch. Dist. v. Dowling*, 266 Ga. 217, 218 (1996) (citing Ga. Const., Art. I, Sec. I, Par. I). To state a due process claim, a litigant must show that they were deprived of a liberty or

⁹ To the extent that Wood would point to the "evidence" submitted with his position for support for any of his factual predicates, all Petitioner's exhibits are unsworn declarations or other reports and as such are not competent evidence under Georgia law. *See, e.g.,* Davis & Shulman's Ga. Prac. & Proc. Sec. 23:18 (2020-2021 ed.) (citing inter alia *McPherson v. McPherson*, 238 Ga. 271, 272(1), 232 S.E.2d 552 (1977) (noting requirement that affidavits in support of dispositive motion be sworn was a codification of common law requirement of same); *Sambor v. Kelley*, 271 Ga. 133, 134(1), 518 S.E.2d 120 (1999) ("Such document does not constitute a valid affidavit and has no probative value, because it was not sworn to before a notary public.")).

property interest without notice or the opportunity for a hearing. *See Dansby v. Dansby*, 222 Ga. 118, 120 (1966); *see also Wood*, 2020 WL 6817513 at *11 (“The party invoking the Due Process Clause’s procedural protections bears the ‘burden . . . of establishing a cognizable liberty or property interest.’” (quoting *Richardson v. Tex. Sec’y of State*, 978 F.3d 220, 229 (5th Cir. 2020))). None of these requirements are alleged here.

First, Georgia counties’ receipt of CTCL grants does not give rise to a due-process violation and the Petition thoroughly fails to adduce facts that would support such a conclusion, even if the Petition’s factual allegations are taken as true for the purposes of this motion to dismiss. Indeed, nothing in the Petition even attempts to explain how the CTCL grants deprived Wood, or any other voter for that matter, of a cognizable liberty or property interest, or inflicted any injury at all. *See* Pet. ¶¶ 26-43. Rather, the Petition alleges that the grants were “to be used exclusively for the public purpose of planning safe and secure election administration,” *id.* ¶ 30, increasing election staffing, *id.* ¶ 31, encouraging absentee voting during a national health crisis, *id.* ¶ 36, making elections safer, *id.*, engaging historically disenfranchised populations, *id.*, supporting voters with disabilities, *id.*, improving access for displaced voters, *id.*, and “install[ing] additional drop boxes in areas that would make it easier for voters to cast their absentee ballots,” *id.* ¶ 40. It is unclear how improvements in election administration and the facilitating of voting could deprive someone of a right. And neither Wood nor any other voter has a valid liberty interest in discouraging lawful voters from voting. Accordingly, the CTCL grants did not deprive any Georgian of due process and cannot sustain Wood’s due process claim.

Second, neither the Settlement Agreement nor the resulting signature matching procedures can support a due process claim. In fact, quite the opposite is true. The Petition alleges that the additional protections for absentee voters agreed upon in the Settlement Agreement— “makes it

difficult to reject ballots.” *Id.* at 56. Thus, if anything, on the face of the Petition voters are not deprived of any liberty interest; rather their liberty interest is far more likely to be preserved as their votes are more likely to be counted. To be sure, Wood asserts that the process of reviewing signatures “creates delay and a cumbersome, unnecessary and expensive bureaucratic protocol to be followed,” *id.*, but he has not actually alleged that that process *deprived* anyone of anything. And as for Wood’s allegation that the Settlement Agreement’s procedure “makes it difficult to reject ballots,” neither Wood nor any other voter has a liberty interest in rejecting lawful ballots. Thus, here, too, the Petition fails to state a due process claim.

Third, Wood’s contentions that election officials failed to enforce voter residency requirements and the prohibition on double voting do not state a due-process claim. The seven lines that the Petition dedicates to each contention are devoid of specific facts. *See* Pet. ¶¶ 62-67. And merely making the conclusory allegations that “Georgia election officials had residency information to verify that an actual person was voting according to their residence” and “violated Georgia law in not applying this change of address information to enforce residency requirements,” *id.* ¶¶ 63-64, that “Georgia election officials have access to information to prevent double voting” and that they “violated Georgia law in not applying this information to enforce Georgia’s prohibition on double voting,” *id.* ¶¶ 66-67, are certainly not enough. *See, e.g., Brown v. Wetherington*, 250 Ga. 682, 685 (1983) (“[Appellants] argue that appellees’ petition contained only conclusory allegations which were insufficient to put them on notice of the specific charges against them, and that the trial court erred in denying their motion to dismiss on this ground. We agree.”).

Because the Petition fails to allege specific facts demonstrating the deprivation of a protected liberty or property interest, let alone that such a deprivation occurred without notice or a hearing, it does not state a claim of a due-process violation.

2. The Petition fails to state an equal protection claim.

The Petition also fails to state a claim that election officials violated voters' equal-protection rights under the Georgia Constitution. Georgia's equal-protection clause is "substantially equivalent" to the federal equal-protection clause, and provides a cause of action if the State treats the claimant differently than those similarly situated to the claimant. *Henry v. State*, 263 Ga. 417, 417, 418 (1993); *see also Am. Subcontractors Ass'n, Ga. Chapter, Inc. v. City of Atlanta*, 259 Ga. 14, 20 (1989) (relying on federal equal protection cases to analyze "equal protection under our state constitution"). However, unless the claimant is being treated differently in regard to a fundamental right or because of a suspect classification (such as race or nationality), the challenged state action will survive an equal-protection challenge if it "bears a rational relationship to a legitimate government interest." *Henry*, 263 Ga. at 418. None of Wood's allegations establish such unlawful treatment.

First, Georgia counties' receipt of grants from CTCL does not demonstrate an equal-protection violation. The Petition does not allege that, as a result of counties accepting CTCL grants, Wood or any other Georgia voter was treated differently because of a suspect classification. Neither does the Petition allege that any Georgia voter was treated differently than similarly situated voters and thereby deprived of a fundamental right. Certainly, the right to vote is fundamental, but nowhere in the Petition does Wood claim that any Georgians' right to vote was deprived or even burdened by certain counties' receipt of CTCL grants. Rather, the Petition simply claims that the CTCL grants were used by recipient Georgia counties to encourage all eligible

voters to vote, particularly in light of the COVID-19 pandemic's strain on the administration of the election. *See* Pet. ¶¶ 33-35.

To the extent that the Petition implies that CTCL itself discriminate by offering grants only to certain counties—a contention that the federal district court presiding over Wood's first case rejected, *see Ga. Voter All.*, 2020 WL 6589655 at *1 (“Any jurisdiction is eligible to apply that is ‘responsible for administering election activities covered by the grant.’”)—that does not amount to an equal protection claim. Only a state actor is beholden to the equal protection clause. And, more fundamentally, there are no allegations in the Petition supporting the inference that the counties that did not receive grants even applied for them, much less needed them. If anything, the only inference that can be drawn from the Petition is that larger counties—like Fulton, Cobb, Gwinnett, and DeKalb, *see* Pet. ¶¶ 39-43—with a larger share of voters sought and received assistance ostensibly placing them on equal footing with smaller counties that did not need such assistance.¹⁰ Providing funding to the residents of one county to promote the exercise of their right to votes does not impose an injury on out-of-county residents who do not need such benefits in the first place.

For largely the same reasons, the Petition's allegation that CTCL funding was used to place more drop boxes in heavily populated counties does not demonstrate an equal protection-violation. *See* Pet. ¶¶ 39-43. Nowhere in the Petition does Wood claim that any Georgians' right to vote was deprived or even burdened by certain counties' use of drop boxes. Rather, he asserts the opposite, stating that “Georgia counties utilized CTCL funding to install additional drop boxes in areas that

¹⁰ According to the U.S. Census, Fulton (population of 1,063,937), Gwinnett (936,250), Cobb (760,141), and DeKalb (759,297) are the four most populous counties in Georgia. The election administration needs of Fulton County, with over a million residents, are obviously different from those of a county like Taliaferro, which has a population of 1,537.

would make it easier for voters to cast their absentee ballot.” *Id.* ¶ 41. Critically, Wood fails to allege or demonstrate that less populated counties with fewer drop boxes needed more. The Petition merely demonstrates that Georgia’s most populous counties had more drop boxes than the state’s less populous counties; this is hardly surprising. Differing numbers of drop boxes does not amount to a disparate burden on voters.

Second, as a federal district court in Georgia recently concluded, the Settlement Agreement and resulting signature matching procedures does not establish an equal-protection violation because they applied “in a wholly uniform manner across the entire state.” *Wood*, 2020 WL 6817513 at *9. The Petition concedes this point. *See* Pet. ¶ 55 (“[T]he Settlement Agreement overrides the clear statutory authorities granted to County Officials individually and forces them to form a committee of three (3) if any one official believes that an absentee ballot is a defective absentee ballots . . .”). And it does not allege that the Settlement Agreement resulted in any voter being denied the right to vote, let alone denied that right while it was exercised by those similarly situated. *See id.* ¶¶ 44-61; *see also Wood*, 2020 WL 6817513 at *8-10.

Third, Wood’s contention that election officials failed to enforce voter residency requirements and, *fourth*, Wood’s contention that election officials failed to enforce the prohibition on double voting do not state an equal-protection claim for the same reason they do not state a due-process claim: the Petition includes no specific facts and only conclusory statements to support their theories. *See* Pet. ¶¶ 62-67; *see also, e.g., Brown*, 250 Ga. at 685.

While not explicit in Wood’s Petition, to the extent that he is asserting that he and other Georgia voters suffered an equal protection violation because their votes were diluted by votes cast in counties that received CTCL grants, or as a result of the Settlement Agreement, or purported double or non-resident voters, this also fails to state an equal protection claim. Vote dilution is a

viable basis for equal protection claims only in certain contexts, such as when laws structurally devalue one community's votes over another's. *See, e.g., Bognet v. Sec'y Commonwealth of Pa.*, No. 20-3214, 2020 WL 6686120, at *11 (3rd Cir. Nov. 13, 2020) (“[V]ote dilution under the Equal Protection Clause is concerned with votes being weighed differently.”). But Wood’s “conceptualization of vote dilution—state actors counting ballots in violation of state election law—is not a concrete harm under the Equal Protection Clause of the Fourteenth Amendment.” *Id.* at *11; *see also Wood*, 2020 WL 6817513, at *8–10 (concluding that vote-dilution injury is not “cognizable in the equal protection framework”). It is merely a string of unsubstantiated speculations in which Wood attempts to “transmute allegations that state officials violated state law into a claim that his vote was somehow weighted differently than others,” a theory that has been “squarely rejected.” *Id.*

Because the Petition fails to allege specific facts demonstrating that any Georgia voter was deprived of a fundamental right that was otherwise granted to those similarly situated, Wood fails to adequately state his claim that the presidential election results are in doubt because of an equal-protection violation.

3. The Petition fails to state a claim that election officials violated the Elections or Electors Clauses in the U.S. Constitution.

The Petition fails to state a claim under the Elections and Electors Clauses of the U.S. Constitution. The Elections and Electors Clauses vest authority in “the Legislature” of each state to regulate “[t]he Times, Places, and Manner of holding Elections for Senators and Representatives,” U.S. Const. art. I, § 4, cl. 1., and to direct the manner of selecting presidential electors, U.S. Const. art. II, § 1, cl. 2, respectively. The Supreme Court has held, however, that state legislatures can delegate this authority to state officials, like the Secretary. *See, e.g., Ariz. State Legislature v. Ariz. Indep. Redistricting Comm’n*, 576 U.S. 787, 807 (2015) (noting that

Elections Clause does not preclude “the State’s choice to include” state officials in lawmaking functions so long as such involvement is “in accordance with the method which the State has prescribed for legislative enactments”) (quoting *Smiley v. Holm*, 285 U.S. 355, 367 (1932)); *Corman v. Torres*, 287 F. Supp. 3d 558, 573 (M.D. Pa. 2018) (“The Supreme Court interprets the words ‘the Legislature thereof,’ as used in that clause, to mean the lawmaking processes of a state.”) (quoting *Ariz. State Legislature*, 576 U.S. at 816). Accordingly, Georgia election officials’ actions could only constitute plausible violations of the Elections and Electors clauses if such actions exceeded the authority granted to those officials by the Georgia General Assembly. None of the Petition’s factual allegations demonstrate an election official acting in excess of their authority.

First, the receipt of CTCL grants does not violate the Elections and Electors Clauses, as the federal district court concluded in Wood’s previous challenge. *See Ga. Voter All.*, 2020 WL 6589655 at *3 (“[T]he Elections Clause does not, on its own, provide Plaintiffs with a basis to sue [Georgia election officials] . . . [and e]ven if the Elections Clause did provide a vehicle to sue, Plaintiffs are not likely to show that [Georgia election officials’] actions would violate the clause. . . . [because] acceptance of private funds, standing alone, does not impede Georgia’s duty to prescribe the time, place, and manner of elections, and Plaintiffs cite no authority to the contrary.”). The General Assembly delegated the local administration of election to county election officials, O.C.G.A. § 21-2-70, who are free to “exercis[e their] prerogative of locating funding” to carry out their duties. *See id.* The Petition’s claim to the contrary has been uniformly rejected by courts around the country. *See supra* at II.B.1.b n.1.

Second, the Settlement Agreement and the resultant OEB issued by the Secretary on signature-matching processes for absentee voting do not violate the Elections and Electors Clauses.

As U.S. District Court Judge Grimberg recently concluded, the Secretary is the chief election official for the state pursuant to Georgia law, and the General Assembly has granted him the power and authority to manage Georgia's election system, including its absentee voting system. *See Wood*, 2020 WL 6817513 at *10 (citing O.C.G.A. § 21-2-50(b)); *see also Fair Fight Action, Inc. v. Raffensperger*, 413 F. Supp. 3d 1251 (N.D. Ga. 2019); Ga. Op. Att'y Gen. No. 2005-3 (Apr. 15, 2005) (recognizing the Secretary's authority to manage Georgia's election system). Additionally, the Secretary is the Chair of the Board, which is the governmental body responsible for uniform election practice in Georgia. O.C.G.A. § 21-2-31; *see also Curling v. Raffensperger*, 403 F. Supp. 3d 1311, 1345 (N.D. Ga. 2019) ("[T]he [] Board is charged with enforcing Georgia's election code under state law."). In both roles, the Secretary has significant statutory authority to train local election superintendents and registrars and to set election standards. *See New Ga. Project v. Raffensperger*, No. 1:20-CV-01986-ELR, 2020 WL 5200930 at *8 (N.D. Ga. Aug. 31, 2020). Thus, "[t]he Settlement Agreement is a manifestation of Secretary Raffensperger's statutorily granted authority. It does not override or rewrite state law. It simply adds an additional safeguard to ensure election security by having more than one individual review an absentee ballot's information and signature for accuracy before the ballot is rejected." *Wood*, 2020 WL 6817513 at *10.

The Secretary also exercised his rightful authority when, pursuant to the Settlement Agreement, he issued the OEB outlining procedures for the signature matching process. The OEB in question accords with O.C.G.A. §§ 21-2-31 and 21-2-300(a), which empower the Secretary—as the chief elections official and Board Chair—to obtain uniformity in the practices of local elections officials in administering Georgia's election law. *See* O.C.G.A. § 21-2-50(a), (b); *see also Grizzle v. Kemp*, 634 F.3d 1314, 1319 (11th Cir. 2011). The OEB expressly required all

counties to continue to verify absentee voter identity by comparing signatures as Georgia law requires. *See* Pet. ¶ 53. The Secretary's issuance of the OEB was entirely congruent with his delegated authority to obtain the uniform administration of elections in Georgia. "[I]f anything, [the Secretary's] actions in entering into the Settlement Agreement sought to achieve consistency among the county election officials in Georgia, which furthers Wood's stated goals of conducting '[f]ree, fair, and transparent public elections.'" *Wood*, 2020 WL 6817513, at *10.

And *third*, Wood's contention that election officials failed to enforce voter residency requirements and, *fourth*, Wood's contention that election officials failed to enforce the prohibition on double voting do not state claims under the Elections and Electors Clauses because they include no specific facts and only conclusory statements to support their theories. *See* Pet. ¶¶ 62-67; *see also, e.g., Brown*, 250 Ga. at 685.

Notwithstanding the above, even if Wood were able to state a claim under the Electors and Elections Clauses, even in the context of an election contest he could not bring it as he does not have standing to raise this claim. Wood's Elections and Electors Clause claims "belong, if they belong to anyone, only to the [Georgia] General Assembly." *Bognet*, 2020 WL 6686120, at *7. Wood has no authority to assert the rights of the General Assembly.¹¹

¹¹ To the extent Wood intends to raise any of his constitutional claims independently from his election contest, he has no standing to maintain them because he has not suffered an injury in fact. Federal case law is instructive here. *See Feminist Women's Health Ctr. v. Burgess*, 282 Ga. 433, 434 (2007) (collecting Georgia cases that look to federal law to resolve issues of standing). When the injury alleged "is that the law . . . has not been followed[.]" it is "the kind of undifferentiated, generalized grievance about the conduct of government" that is not an injury for standing purposes. *Dillard v. Chilton Cnty. Comm'n*, 495 F.3d 1324, 1332-33 (11th Cir. 2007) (citing *Lance v. Coffman*, 549 U.S. 437 (2007)). This is precisely the case here, where Wood provides no allegations demonstrating how he has been harmed; rather, his recurring grievance is that election authorities allegedly did not follow the law. *See* Pet. at Prayer for Relief (citing only "Georgia election officials' material violations of Georgia election law" as source of constitutional violation). Wood does not even purport to argue that *his* due process or equal protection rights were violated; rather,

Accordingly, Wood’s Election and Elector Clause claims must be dismissed.

4. Even if the Petition stated a claim, the requested relief cannot be granted.

This Court is not empowered to grant the relief requested because the relief it seeks—a declaratory judgment “null[ifying]” the results of the presidential election, as well as an injunction that would prevent certification of the lawfully elected slate of presidential electors and require the Governor to certify a slate chosen by the Legislature, Pet. 26-27—would violate state and federal law including: (1) federal and state constitutional law regarding the selection of electors, (2) constitutional protection of the fundamental right to vote, (3) the Due Process Clause, and (3) the First Amendment. *See Glisson v. Glob. Sec. Servs., LLC*, 653 S.E.2d 85, 86 (2007) (“Abuse [of discretion] results if a trial judge awards injunctive relief . . . contrary to the law and equity.”); *Attaway v. Republic Servs. of Ga., LLP*, 558 S.E.2d 846, 847 (2002) (same).

First, The U.S. Constitution empowers state legislatures to choose the “Manner” of appointing presidential electors, U.S. Const. art. II, § 1, cl. 2, pursuant to their lawmaking authority. Under that provision, the Georgia General Assembly has chosen to appoint electors according to popular vote, who are certified by the Governor through a certificate of ascertainment. *See* O.C.G.A. § 21-2-499(b). Because the legislature has determined that the “Manner” of appointing presidential electors is by popular vote on election day, the U.S. Constitution’s Electors Clause requires that the presidential election be conducted in accordance with that chosen “Manner.” *See Bush v. Gore*, 531 U.S. 98, 104 (2000) (per curiam) (“When the state legislature vests the right to vote for President in its people, the right to vote as the legislature has prescribed

he asserts that election officials “violated *the voters*” rights generally. *See id*; *see Wood*, 2020 WL 6817513, at *4-6 (finding that individual Georgia voter lacked standing to challenge results of 2020 election under the Elections Clause, Electors Clause, Equal Protection Clause, and Due Process Clause based on a “generalized grievance regarding a state government's failure to properly follow” the law).

is fundamental.”). Neither Wood nor this Court can upend this process by replacing the State’s duly selected “Manner” of choosing electors with a different one.

Congress has also provided that electors “shall be appointed in each State, on the Tuesday next after the first Monday in November, in every fourth year,” *i.e.*, on Election Day. 3 U.S.C. § 1. Georgia held its election on election day. But granting Wood’s relief now would violate that directive, as Georgia’s electors would be chosen *after* election day.

Second, the relief Wood seeks would also violate Georgians’ fundamental right to vote under the U.S. and Georgia constitutions under their equal protection, due process, and free speech and association clauses by disenfranchising millions of Georgians. *See, Reynolds v. Sims*, 377 U.S. 533, 555 n.29 (1964) (“There is more to the right to vote than the right to mark a piece of paper and drop it in a box or the right to pull a lever in a voting booth. The right to vote includes the right to have the ballot counted.”); Ga. Const. art. II, § 1, ¶ II (right-to-vote provision in Georgia Constitution).

Similarly, substituting a different slate of electors for the Biden-Harris slate chosen by a majority of Georgia voters would violate the equal-protection rights of all such voters who chose the winning slate. Presidential electors are chosen by popular vote in Georgia, as they are in every other state. *See* O.C.G.A. § 21-2-10. Because Georgia has chosen to empower its citizens to choose its presidential electors at the ballot box, the equal-protection clause forbids “later arbitrary and disparate treatment . . . valu[ing] one person’s vote over that of another.” *Bush*, 531 U.S. at 104-05; *see also Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 665 (1966) (“[O]nce the franchise is granted to the electorate, lines may not be drawn which are inconsistent with the Equal Protection Clause.”). Disregarding Georgians’ popular vote would flout that principle, arbitrarily and disparately favoring Trump-Pence voters and violating the rights of Biden-Harris voters to

equal protection. There is no rational or non-arbitrary reason—let alone a compelling reason—to impose that disparate treatment.

Third, Wood’s proposal that the Court invalidate millions of ballots lawfully cast under the rules in place at the time, with no opportunity to cure would violate voters’ due process rights. Such an “application of [a] new . . . rule to nullify previously acceptable” election procedures, “without prior notice,” is quintessentially “unfair and violate[s] due process.” *Briscoe v. Kusper*, 435 F.2d 1046, 1055 (7th Cir. 1971); *see also, e.g., Self Advoc. Sols. N.D. v. Jaeger*, 464 F. Supp. 3d 1039, 1054 (D.N.D. 2020) (holding plaintiffs likely to succeed on procedural due process claim because signature-matching requirement failed “to provide affected voters with notice and an opportunity to cure a signature discrepancy before a ballot is rejected”); *Saucedo v. Gardner*, 335 F. Supp. 3d 202, 222 (D.N.H. 2018) (granting summary judgment on procedural due process claim because signature-matching requirement was not accompanied by notice or opportunity to cure); *cf. PHH Corp. v. CFPB*, 839 F.3d 1, 48 (D.C. Cir. 2016) (Kavanaugh, J.) (explaining that government may not “officially and expressly” tell citizens that they are “legally allowed to do something,” only later to tell them “just kidding”), *rev’d on other grounds*, 881 F.3d 75 (2018) (en banc).

And it is beyond question that invalidating ballots after the election because of election officials’ alleged errors would be fundamentally unfair, infringing affected voters’ right to substantive due process. *See, e.g., Holton v. Hollingsworth*, 270 Ga. 591, 592-93 (1999) (holding that voter cannot be disenfranchised because of mistake made by election officer); *Malone v. Tison*, 248 Ga. 209, 214 (1981) (same); *Roe v. Alabama*, 43 F.3d 574, 580-81 (11th Cir. 1995) (“If . . . the election process itself reaches the point of patent and fundamental unfairness, a violation of

the due process clause may be indicated.” (internal quotation marks omitted)); *Griffin v. Burns*, 570 F.2d 1065, 1077 (1st Cir. 1978) (same).

Finally, invalidating Georgians’ votes based on Wood’s post-election legal challenges would violate voters’ First Amendment rights. The U.S. Supreme Court has recognized individuals’ right “to associate with others for political ends.” *Anderson v. Celebrezze*, 460 U.S. 780, 788 (1983). The Court has also held that “limiting the choices available to voters . . . impairs the voters’ ability to express their political preferences.” *Ill. State Bd. of Elections v. Socialist Workers Party*, 440 U.S. 173, 184 (1979). Here, granting the requested relief would result in Georgians’ votes being not only disfavored, but rendered “null” and “void.” Pet. at 26-27. This would ignore those voters’ choices, severely burdening their First Amendment rights without any compelling or even rational justification. See, e.g., *Williams v. Rhodes*, 393 U.S. 23, 30 (1968) (discussing the “right of qualified voters, regardless of their political persuasion, to cast their votes effectively”); *Dart v. Brown*, 717 F.2d 1491, 1504 (5th Cir. 1983) (noting First Amendment right “to cast a meaningful vote for a candidate of one’s choice”); *Hendon v. N.C. State Bd. of Elections*, 710 F.2d 177, 180 (4th Cir. 1983) (“The Constitution protects the right of qualified citizens to vote and to have their votes counted as cast.”). As the Eleventh Circuit noted in *Democratic Executive Committee of Florida v. Lee*, 915 F.3d 1312, 1321 (11th Cir. 2019), “it is a basic truth that even one disenfranchised voter—let alone several thousand—is too many.” *Id.* (internal quotation marks omitted). Here, Wood seeks disenfranchisement of *millions* of Georgia voters, a result far more concrete, severe, and intolerable than the result in *Lee*. The requested relief is untenable under the First Amendment.

V. CONCLUSION

For the foregoing reasons, the Court should dismiss Wood’s Petition for Election Contest with prejudice.

Dated: November 30, 2020.

Respectfully submitted,

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**Pro Hac Vice Application Forthcoming*

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IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

John Wood,

Contestant,

v.

Brad Raffensperger, in his official capacity of
Secretary of State of the State of Georgia; and Brian
Kemp, in his official capacity as Governor of the
State of Georgia.

Defendants.

Civ. Act. No. 2020CV342959

Attorney's Affidavit of Adam M. Sparks

I, Adam M. Sparks, state as follows:

1. My name is Adam M. Sparks. I am over 18 years of age and have personal knowledge of the below facts, which are true and accurate to the best of my knowledge and belief.

2. I am an attorney with the firm of Krevolin and Horst, and counsel for Proposed Defendant-Intervenors. I make this declaration in support of Proposed Intervenors' Motion to Intervene as Defendants.

3. Attached hereto as Exhibit 1 is a true and correct copy of Georgia Governor Brian Kemp's *Certificate of Ascertainment*, which is publicly available at <https://www.archives.gov/files/electoral-college/2020/ascertainment-georgia.pdf>.

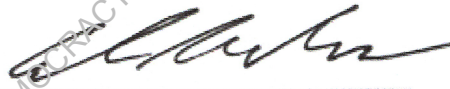
4. Attached hereto as Exhibit 2 is a true and correct copy of Georgia Secretary of State Brad Raffensperger's Press Release: *Monitors Closely Observing Audit-Trigger Full Hand Recount: Transparency is Built into Process* (Nov. 13, 2020), https://sos.ga.gov/index.php/elections/monitors_closely_observing_audit-triggered_full_hand_recount_transparency_is_built_into_process.

5. Attached hereto as Exhibit 3 is a true and correct copy of Georgia Secretary of State Brad Raffensperger's NOTICE OF PUBLIC CONTEST SELECTION OF RISK LIMITING AUDIT, which is publicly available at

6. Attached hereto as Exhibit 4 is a true and correct copy of the November 21, 2020 "Recount Demand" sent by Ray Smith III, Counsel for President Donald J. Trump in his capacity as the Republican nominee for President of the United States, to Georgia Secretary of State Brad Raffensperger.


FURTHER AFFIANT SAYETH NOT.

Executed this 20th day of November 2020.



Adam M. Sparks

Sworn to and subscribed to
before me this 30th day of
November 2020.


Notary Public

JENNIFER E BROWN
NOTARY PUBLIC
FULTON COUNTY, GEORGIA
MY COMM. EXPIRES 07/16/2021

My commission expires:

07/16/2021

Exhibit 1

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Certificate of Ascertainment

On November 3, 2020, the following sixteen people were appointed Electors of President and Vice President of the United States for the State of Georgia, each receiving 2,474,507 votes:

Stacey Yvonne Abrams
Gloria S. Butler
Wendy Davis
Bobby L. Fuse, Jr.
Deborah Gonzalez
Steve Henson

Van R. Johnson
Pedro "Pete" Marin
Fenika Thomas Miller
Ben E. Myers, Jr.
Rachel Paule
Calvin Smyre

Bob Trammell, Jr.
Sachin Varghese
Nikema Williams
Cathy Woolard

The following electors received 2,461,837 votes:

Joseph Brannan
James "Ken" Carroll
Vikki Townsend Consiglio
Carolyn Hall Fisher
Patrick M. Gartland
Gloria Kay Godwin

David G. Hanna
Mark W. Hennessy
Susan Holmes
John A. Isakson
Cathleen Alston Latham
Daryl Moody

CJ Pearson
David Shafer
Shawn Still
C.B. Yadav

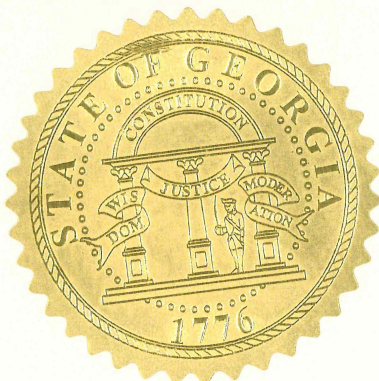
The following electors received 62,138 votes:

Christine Austin
Stephanie Sage Aylworth
Nelson M. Barnhouse
Robert Cortez
Danny Dolan
Eric Fontaine

Ryan Graham
Gretchen Mangan
Edward T. Metz
Mark Mosley
Chase Russell Oliver
Robert Rouse

David R. Shock
John Turpish
Laura Williams
Nathan Wilson

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of Georgia to be affixed at the Capitol in Atlanta, Georgia, this 20th day of November 2020.



B:PL

GOVERNOR

ATTEST:

EXECUTIVE SECRETARY

Exhibit 2

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HOME



CORPORATIONS



ELECTIONS



LICENSING



SECURITIES



CHARITIES

VOTER INFO.

RESULTS & STATS

CANDIDATE INFO.

COUNTY & AGENCY



MONITORS CLOSELY OBSERVING AUDIT-TRIGGERED FULL HAND RECOUNT: TRANSPARENCY IS BUILT INTO PROCESS

(ATLANTA) – Monitors from state and county party organizations will be closely observing the statewide full hand recount, which was triggered by Georgia's first statewide Risk Limiting Audit. From the beginning of planning, the Secretary of State's office has made sure to instruct counties to allow political party organizations to observe the audit/recount throughout the process.

"Transparency is indispensable for ensuring confidence in the outcome of Georgia's elections, which is why I have instructed county elections officials to ensure political party monitors can watch every step of the way," said Secretary of State Brad Raffensperger. "Providing access and oversight of the full hand recount process has been part of the planning since the beginning. We have encouraged counties to livestream their recounts when possible and have made sure political parties can ensure a clean and fair recount in Georgia. Transparency should be a guiding principle in how counties are conducting the audit. While there are rules in place that allow counties to keep order, the more transparency they can provide the better while still ensuring an orderly process."

Georgia counties were required to begin their statewide Risk Limiting Audit triggered full hand recounts by 9 am on Friday, November 13. The counties must finish their recounts by 11:59 pm on Wednesday, November 18. As prescribed by Georgia law, the Secretary of State's office will then certify statewide election results after completion of the audit, by November 20.

Per the instructions given to counties as they conduct their audit triggered full hand recounts, designated monitors will be given complete access to observe the process from the beginning. While the audit triggered recount must be open to the public and media, designated monitors will be able to observe more closely. The general public and the press will be restricted to a public viewing area. Designated monitors will be able to watch the recount while standing close to the elections workers conducting the recount.

Political parties are allowed to designate a minimum of two monitors per county at a ratio of one monitor per party for every ten audit boards in a county. If DeKalb County, for example, has 75 audit teams, each political party would be allowed to designate 8 monitors to monitor the process. Beyond being able to watch to ensure the recount is conducted fairly and securely, the two-person audit boards conducting the hand recount call out the votes as they are recounted, providing monitors and the public an additional way to keep tabs on the process.

The instructions for the audit triggered hand recount build in transparency and provide ample opportunity for party organizations and the voters of Georgia to be confident of a fair and secure process.

Georgia is recognized as a national leader in elections. It was the first state in the country to implement the trifecta of automatic voter registration, at least 16 days of early voting (which has been called the "gold standard"), and no-excuse absentee voting. Georgia continues to set records for voter turnout and election participation, seeing the largest increase in average turnout of any other state in the 2018 midterm election and record overall, early, in-person, and absentee-by-mail turnout during the November 2020 elections.

###

Key Election Dates and Information

Military and Overseas Voting

Register to Vote

Where do I vote? (MVP)

QUICK LINKS

Risk Limiting Audit Public Notice

2020 Presidential Electors

State Election Board

GA Voter ID Info.

Secure The Vote

Elections Advisory Council

2019 Official Directory

Vote Safe

SAFE Commission

Voter Registration Drive

Stop Voter Fraud

Reexamination Costs

Online Complaints

Information for Voter Registrations Pending Due to Citizenship

Proposed Constitutional Amendments

Intent to Tabulate Early

Great Seal

SD 4 Qualified Candidates

iVote - Students / Educators

Advance Voting Info.

Check Your Provisional Ballot Status for November 6, 2018 Election

2019 List Maintenance

FAQs

LATEST ELECTIONS NEWS

Number of Absentee Ballots Rejected for Signature Issues in the 2020 Election Increased 350% from 2018

Wednesday, November 18th 2020

Secretary Raffensperger Announces Completion of Voting Machine Audit Using Forensic Techniques: No Sign of Foul Play

Tuesday, November 17th 2020

Secretary Raffensperger Issues Warning Against Activist Groups Helping Out of State Illegal Voters: 'We will catch you. We Prosecute'

Monday, November 16th 2020

SECRETARY RAFFENSPERGER WARNING: 'MOVING' TO GEORGIA TEMPORARILY IN ORDER TO VOTE IN JAN. 5 RUNOFF IS ILLEGAL AND WILL BE PROSECUTED

Friday, November 13th 2020

Monitors Closely Observing Audit-Triggered Full Hand Recount: Transparency is Built Into Process

Friday, November 13th 2020

OFFICE OF BRAD RAFFENSPERGER

NEWS & ANNOUNCEMENTS

PRESS & MEDIA KIT

PRIVACY POLICY



CONTACT

214 State Capitol

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404.656.2881

[E-Mail](#)

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Exhibit 3

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Office of the Secretary of State

Brad Raffensperger
SECRETARY OF STATE

Chris Harvey
DIRECTOR OF ELECTIONS

SECRETARY OF STATE LEGAL NOTICE ELECTIONS DIVISION

**** NOTICE OF PUBLIC CONTEST SELECTION **** OF RISK LIMITING AUDIT

Notice is hereby given that The Secretary of State's Office will announce on Wednesday, November 11, 2020 at 1:00 p.m. EST the November General Election statewide contest to be audited by all 159 counties. The meeting will be held at 214 State Capitol, Atlanta, Georgia 30334, and it will be accessible via the following link:
https://zoom.us/webinar/register/WN_VbWHeGFXSViTL0M-4zIMOW

Immediately following the announcement, the Secretary of State will oversee the random selection of the ballots to be audited. Counties will be notified of the ballots they must audit following their selection.

Using this website, please fill-in your first name, last name, and the e-mail address you would like your webinar invitation be sent. After registering you will receive an e-mail detailing the instructions on how to enter the webinar.

Exhibit 4

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SMITH & LISS, LLC
ATTORNEYS & COUNSELORS AT LAW

FIVE CONCOURSE PARKWAY
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ATLANTA, GEORGIA 30328
TELEPHONE: 404-760-6000
FACSIMILE: 404-760-0225

NOVEMBER 21, 2020

VIA HAND DELIVERY AND EMAIL TO: rgermany@sos.ga.gov; jfuchs@sos.ga.gov

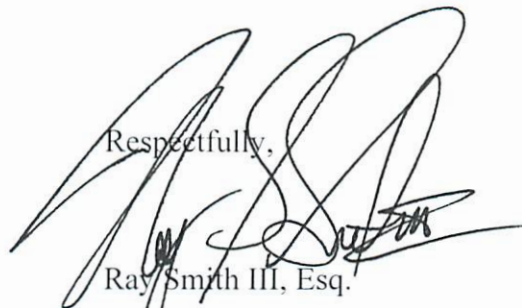
Hon. Brad Raffensperger
Secretary of State
State of Georgia
214 State Capitol
Atlanta, Georgia 30334
Attention:
Jordan Fuchs, Deputy Secretary of State
Ryan Germany, General Counsel

RE: RECOUNT DEMAND

Dear Mr. Secretary:

On behalf of President Donald J. Trump, in his capacity as the Republican candidate for President of the United States and President Donald J. Trump for President, Inc., a recount is hereby demanded pursuant to O.C.G.A. §21-2-495 (c) and State Election Board Rule 183-1-15-.03.

Respectfully,



Ray Smith III, Esq.

Counsel for
President Donald J. Trump in his capacity as
the Republican nominee for President of the
United States, and Donald J. Trump for
President, Inc.

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

John Wood,

Contestant,

v.

Brad Raffensperger, in his official capacity of
Secretary of State of the State of Georgia; and Brian
Kemp, in his official capacity as Governor of the
State of Georgia.

Defendants.

Civ. Act. No. 2020CV342959

Certificate of Service

I hereby certify that on this day I electronically filed the foregoing with the Clerk of the Court via *Odyssey eFileGA*, which will provide notice and service to all counsel of record, and by email to the following:

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E-Mail: rwillard@law.ga.gov

Charlene S. McGowan
Office of the Attorney General
40 Capitol Square, SW
Atlanta, Georgia 30334
Telephone: (404) 458-3658
E-Mail: cmcgowan@law.ga.gov

This 30th day of November 2020.

/s/ Adam M. Sparks
Adam M. Sparks
Georgia Bar No. 341578
*Counsel for Proposed Intervenor-
Defendants*